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BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:)
)
VILLAGE OF ELWOOD, WILL)
COUNTY, ILLINOIS,)
)
Petitioner,)
) No. T01-0064
vs.)
)
UNION PACIFIC RAILROAD)
COMPANY, and STATE OF)
ILLINOIS, DEPARTMENT OF)
TRANSPORTATION,)
)
Respondents.)

Chicago, Illinois
October 29th, 2014

Met, pursuant to notice, at 9:30 a.m.

BEFORE:

MS. LATRICE KIRKLAND-MONTAQUE, Administrative Law
Judge

APPEARANCES:

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1 JUDGE KIRKLAND-MONTAQUE: So by the power
2 vested in me by the State of Illinois and the
3 Illinois Commerce Commission, I now call Docket
4 No. T10-0064 (sic) for a hearing. This is in the
5 matter of the Village of Elwood, Will County,
6 Illinois, versus Union Pacific Railroad Company and
7 the State of Illinois, Department of Transportation,
8 as respondents, and CenterPoint Intermodal, LLC, as
9 an Intervenor.

10 First, I'd like to warn you all that
11 at 10:00 o'clock the building is having a fire
12 drill -- a fire evacuation. I've been advised by the
13 office manager that we do not have to participate in
14 that. It's just a drill. So do not be alarmed. The
15 building is fine. We will close the door and proceed
16 as scheduled. So just try to ignore the signaling
17 that's going on.

18 Okay. And also -- second, as a
19 preliminary matter, I noticed that there are a couple
20 of filings made within the last couple of days.
21 Specifically there was a motion for sanctions and for
22 other relief filed by the Village on October 27th.

1 And I also saw a response filed by CenterPoint late
2 yesterday afternoon. And I'm ready to rule on the
3 motion.

4 I don't think we need to go into
5 arguments. I'm denying the motion on -- for
6 sanctions, but want to remind the party -- parties
7 that the purpose of today's evidentiary hearing is to
8 determine whether the Strawn Road highway-rail grade
9 crossing of the Union Pacific Railroad Company's
10 track should be closed and whether one-way traffic
11 over the crossing would be a viable option.

12 In determining whether the crossing
13 should be closed, the Commission is authorized under
14 625 ILCS 5/18c-7401(3) to require major alteration
15 of or to abolish any crossing heretofore established
16 when in its opinion the public safety requires such
17 alteration or abolition. Thus, the evidence
18 presented today should relate specifically to public
19 safety issues that are present at the crossing.

20 So I urge parties -- and I'm sure
21 we'll -- if other parties object to what anyone is
22 trying to present that is not related to the public

1 safety issues presented, we'll address those; but
2 that's the scope of the hearing today. And I want to
3 remind parties of what type of evidence -- what the
4 evidence should be related to.

5 And, thirdly, I would just like to
6 give an agenda, so to speak, on how things should
7 proceed. I think Staff should go first today in
8 presenting its case since it was Staff's motion to
9 reopen that initiated today's proceeding. Staff will
10 present its witness; other parties will then have the
11 opportunity to cross-examine Staff's witness. And
12 then after Staff, I'll allow Union Pacific to present
13 its witness and then the State of Illinois -- I'm
14 sorry -- Staff, Union Pacific, and then I'll allow --
15 I'm sorry. I messed that up.

16 First I'll allow Staff and then I'll
17 allow the Village of Elwood and then Union Pacific
18 and then the State of Illinois and then CenterPoint.
19 So we're going -- no -- I'm sorry.

20 MR. STREICHER: Your Honor, on behalf -- Paul
21 Striker on behalf of the Village of Elwood.

22 If the Court would please, we would

1 make a suggestion that certainly as petitioner, ICC
2 Staff should go first. Our request would be that the
3 Village of Elwood be allowed to present witnesses
4 subsequent to the Union Pacific. As -- that way I
5 think it would eliminate what would be duplicative
6 testimony set forth in the exhibits by Union Pacific.

7 MR. SHUMATE: The Railroad has no objection to
8 that. We could go second, that's fine.

9 JUDGE KIRKLAND-MONTAQUE: So Staff, the
10 Railroad, Elwood --

11 MR. STREICHER: Thank you, Judge.

12 JUDGE KIRKLAND-MONTAQUE: Okay. Mr. Parrish,
13 are you presenting any witnesses today?

14 MR. PARRISH: No witnesses today, your Honor.

15 JUDGE KIRKLAND-MONTAQUE: Okay. So Staff,
16 Railroad, Elwood and then CenterPoint.

17 First of all, we need to swear in the
18 witnesses that will be testifying today.

19 Ms. Anderson, you have witnesses, more
20 than one. I'll just swear them in as we go along so
21 we can -- I mean, you can -- all of your three I'll
22 do at the same time.

1 MS. ANDERSON: I have two witnesses, your
2 Honor.

3 JUDGE KIRKLAND-MONTAQUE: Oh, okay.

4 (Witnesses sworn.)

5 JUDGE KIRKLAND-MONTAQUE: And I will -- is
6 there anything else before we get going that anyone
7 needs to address as a preliminary matter?

8 No? Okay.

9 MS. ANDERSON: Your Honor, it looks like we
10 have some additional counsel participating today.

11 Did you want us to enter appearances
12 on the record?

13 JUDGE KIRKLAND-MONTAQUE: Do you have -- yes,
14 let's do that.

15 Let's start with Staff and go in the
16 order in which we're going to present evidence.

17 So go ahead, Ms. Anderson.

18 MS. ANDERSON: Thank you, your Honor.

19 My name is Jennifer Anderson. I
20 appear on behalf of the Staff of the Illinois
21 Commerce Commission.

22 MR. SHUMATE: My name is Mack Shumate. I'm an

1 attorney with the Union Pacific Railroad Company. We
2 are a respondent in this matter. Our address is 101
3 North Wacker, Suite 1920, Chicago, Illinois 60606.
4 Phone number: Area code (312) 777-2055.

5 JUDGE KIRKLAND-MONTAQUE: Okay.

6 Elwood.

7 MR. STREICHER: Good morning, your Honor. My
8 name is Paul Streicher. I represent the Village of
9 Elwood. My office address is 321 North Clark Street,
10 Suite 2200 in Chicago, Illinois.

11 MR. SCHMIDT: Good morning, your Honor. David
12 Schmidt, also on behalf of the Village of Elwood,
13 with the law firm of MacCabe & McGuire. We are at 77
14 West Wacker Drive, Suite 3333, here in Chicago.

15 JUDGE KIRKLAND-MONTAQUE: IDOT.

16 MR. PARRISH: Good morning, your Honor.
17 Lawrence Parrish from the Office of Chief Counsel,
18 Illinois Department of Transportation, 100 West
19 Randolph, Suite 6-600, Chicago.

20 JUDGE KIRKLAND-MONTAQUE: Thank you.

21 CenterPoint.

22 MR. SCOTTI: Michael Scotti with the law firm

1 of Freeborn & Peters here on behalf of CenterPoint.
2 With me are Eric Powers and Marc Kallish. We are at
3 311 South Wacker. Our phone number is
4 (312) 360-6000.

5 JUDGE KIRKLAND-MONTAQUE: Okay. Thank you.

6 Okay. Thank you, Ms. Anderson, for
7 that. Now I will give you the floor, Ms. Anderson.

8 MS. ANDERSON: Your Honor, at this time, Staff
9 wishes to call Daniel Powers as its witness.

10 JUDGE KIRKLAND-MONTAQUE: Okay.

11 DANIEL POWERS,
12 called as a witness herein, having been first duly
13 sworn, was examined and testified as follows:

14 DIRECT EXAMINATION

15 BY

16 MS. ANDERSON:

17 Q Mr. Powers, could I have you spell your
18 first and last name for the court reporter.

19 A Daniel Powers, D-a-n-i-e-l, Powers,
20 P-o-w-e-r-s.

21 Q Are you presently employed by the Illinois
22 Commerce Commission?

1 A Yes.

2 Q What is your current job title?

3 A Senior railroad safety specialist.

4 Q With respect to your current position at
5 the Illinois Commerce Commission, what are your
6 duties?

7 A Duties include anything related to
8 highway-rail safety in the state of Illinois,
9 including, but not limited to, project management all
10 the way down to field inspections.

11 Q Please describe generally your experience
12 working with highway grade safety issues with
13 railroad crossings, both at the Illinois Commerce
14 Commission and in other employment that you've had?

15 A Previously I was employed by the Illinois
16 Department of Transportation. At that position I was
17 involved with railroad traffic signal interconnects
18 and I carried that over into my current position,
19 along with other duties, at the Illinois Commerce
20 Commission that expand beyond that.

21 Q With respect to your experience working at
22 the Illinois Department of Transportation, how long

1 did you work there?

2 A I was employed with the Illinois Department
3 of Transportation for approximately 15 and a half
4 years. And within that employment, it included
5 Bureau of Construction, Bureau of Local Roads and the
6 Bureau of Traffic.

7 Q That experience that you had at the
8 Illinois Department of Transportation, how is that
9 related to rail safety?

10 A Towards the end of my career at the
11 Illinois Department of Transportation, we were
12 charged, along with the Illinois Commerce Commission,
13 to enhance safety at highway-rail grade crossings,
14 specifically related to traffic signal interconnects
15 that are interconnected to railway warning devices.

16 Q And with respect to your employment at the
17 Illinois Department of Transportation where you were
18 dealing with interconnect issues, what were you able
19 to accomplish in that position?

20 A We, along with the Commerce Commission,
21 were charged to increase safety at highway-rail
22 intersections that were interconnected with railroad

1 warning devices. And part of a short list of some of
2 the major things that were accomplished were
3 increasing warning time that the Railroad provided
4 before the arrival of the train. And that was a big
5 effort -- I think the State of Illinois spent
6 approximately \$300 million-plus to help increase the
7 warning time at these locations.

8 And on the traffic signal side, we
9 were able to enhance the safety of the traffic signal
10 controller security as well as the interconnect
11 circuit between the traffic signals and the railroad
12 warning devices.

13 Q Mr. Powers, with respect to the revisions
14 made to warning time that you worked on at the
15 Illinois Department of Transportation, do you know
16 whether those revisions have been adopted broadly at
17 the state or national level?

18 A Well, as I mentioned before, at the state
19 level there was a statewide investment of probably
20 \$300 million to help increase the warning time. So I
21 would say that most of the state level has been
22 adopted. And as far as the other items mentioned on

1 the traffic signal side, most of those have been
2 adopted. And some of those safety enhancements have
3 been recognized at the national level as well.

4 Q With respect to your employment at the
5 Illinois Commerce Commission, how long have you been
6 employed by the Illinois Commerce Commission as a
7 rail safety specialist?

8 A Just over 15 years.

9 Q With respect to your employment at the
10 Illinois Commerce Commission, how long have you been
11 dealing with grade crossings?

12 A The full 15 years.

13 Q In the course of your employment at the
14 Illinois Commerce Commission, have you become
15 familiar with AAR/DOT No. 922023D located at
16 Milepost 46.26 in the Village of Elwood?

17 A Yes.

18 Q Okay. For the purposes of the questions
19 I'm going to ask you, I'm going to refer to this
20 crossing as the Strawn Road crossing. Okay?

21 A Yes. Okay.

22 Q So in your employment at the Illinois

1 Commerce Commission, when did you first become aware
2 of the Strawn Road crossing?

3 A Late 2001.

4 Q And how did you become familiar with that?

5 A I was notified by the Illinois Department
6 of Transportation that a project was upcoming at this
7 location that included an intermodal yard and a new
8 grade crossing.

9 Q In 2001, did the scope of your job duties
10 at the Illinois Commerce Commission require you to
11 work at all on what was then a proposed project for a
12 grade crossing at this location?

13 A No, I was more assisting a different Staff
14 member for this project. And in my role, I was
15 assisting in the new intersection and the new traffic
16 signal interconnect that was proposed for that
17 location.

18 Q When you say you were assisting another
19 Staff member, which ICC Staff member were you
20 assisting?

21 A Robert Berry, who's since retired.

22 Q And can you spell Robert Berry's name for

1 the court reporter, please.

2 A I think it's Robert and then B-e-r-r-y.

3 Q With respect to your assistance to
4 Mr. Berry with this project, can you describe in
5 detail what that assistance was that you gave?

6 A Basically I was presented with a Phase 1
7 design of the intersection called an Intersection
8 Design Study. And I got involved with the review of
9 that Intersection Design Study in 2001. Prior to the
10 hearing on the case and through the hearing of the
11 case, I continually reviewed that Intersection Design
12 Study.

13 Q Did you provide any other assistance
14 related to the signalization that would be installed
15 at this crossing?

16 A Subsequent to the hearing, when -- there
17 was ordered to be in place -- there was a Phase 2
18 design specifically concerning the traffic signals at
19 the intersection of Illinois Route 53 and Strawn
20 Boulevard. So I was limited to the traffic signal
21 side of it and not the railroad warning device side
22 of it, except for the warning time requirements that

1 would be used for the interconnection of the two
2 systems.

3 Q Mr. Powers, you just referenced the hearing
4 in your testimony. When you say "the hearing," are
5 you referring to the March 20th, 2002 hearing held at
6 the Illinois Commerce Commission after which the
7 Commission entered an order approving the
8 installation of the Strawn Road crossing?

9 A Yes.

10 Q Were you present at the time of that
11 hearing?

12 A Yes.

13 Q For your purposes in dealing with the
14 signalization issues at this crossing that would
15 eventually be installed, did -- what considerations
16 that were discussed at the hearing did you use to
17 prepare a plan for the signalization at the crossing?

18 A It probably goes back to the review of the
19 Intersection Design Study prior to the hearing. And,
20 you know, as Staff of the Commission, I was
21 concurrently reviewing that Intersection Design Study
22 with folks from the Illinois Department of

1 Transportation. And they pretty much had the say on
2 the final geometry of, you know, radii and lengths of
3 turn lanes and things like that.

4 But prior to the hearing, there was
5 a -- we'll call it a prehearing coordination meeting
6 in January of 2002. And much of the information that
7 I gathered at that meeting seemed to indicate that
8 the -- that this Strawn Road crossing was going to be
9 a -- pretty much a secondary entrance to the whole --
10 the whole facility and that most of the traffic was
11 going to be limited to Baseline Road, Arsenal Road
12 and I-55 to the west and that this was pretty much
13 going to be a secondary entrance to this facility.

14 Q So it sounds like at the prehearing
15 coordination meeting prior to the March 20th, 2002
16 hearing, one of the issues that came up in that
17 meeting was the projected use of the crossing by
18 certain types of vehicles?

19 A Yes.

20 Q Did that issue come up at the hearing as
21 well?

22 A Yes.

1 Q Did you rely on the representations made at
2 the prehearing coordination meeting as well as the
3 evidentiary hearing on March 20th, 2002, in your
4 consideration of what would be proper signalization
5 at this crossing?

6 A Yes.

7 Q Did you also consider the volume of trains
8 that were to be using the crossing?

9 A Yes.

10 Q Did you also consider the speed of trains
11 that would be using the crossing?

12 A Yes.

13 Q In your review for the purposes of
14 developing the signalization for the crossing, did
15 you consider the proximity of the crossing to the
16 Abraham Lincoln National Cemetery and the presence of
17 funeral processions on Illinois Route 53?

18 A No, I think the first I heard of that might
19 have been at the hearing itself.

20 Q Mr. Powers, I have a copy of the transcript
21 from the March 20th, 2002 hearing in front of you.

22 You testified that you were physically

1 present for the testimony given at this hearing,
2 correct?

3 A Yes.

4 Q Can I have you take a look at Page 27 of
5 the transcript at the question asked by Mr. Shumate
6 at that hearing when he was cross- -- Shumate is
7 spelled S-h-u-m-a-t-e -- as he was cross-examining
8 Mr. Tonelli -- spelled T-o-n-e-l-l-i -- that appears
9 at Lines 14 through 20 on Page 27 of the transcript.

10 Do you see that question?

11 A Yes, I do.

12 MR. SCOTTI: Which exhibit are you referring
13 to?

14 MS. ANDERSON: It's not an exhibit, it's the
15 record of the previous hearing.

16 MR. SCOTTI: So it's a record of the earlier
17 version of this hearing?

18 MS. ANDERSON: Yes, it's the record of
19 T01-0064.

20 MR. SCOTTI: Do you have another copy of the
21 transcript so we could follow along?

22 MS. ANDERSON: If you have the binder that I

1 gave you in January, it's in there.

2 MR. SCOTTI: I just brought the ones that were
3 proposed hearings for today.

4 MR. SHUMATE: It's at the back of the binder.

5 MR. SCHMIDT: Is there an objection here, your
6 Honor, or can we just move on?

7 JUDGE KIRKLAND-MONTAQUE: I'll allow him to get
8 a copy of the transcript.

9 MR. SCOTTI: Thank you.

10 MR. SHUMATE: Is that Page 27?

11 MS. ANDERSON: Yes.

12 JUDGE KIRKLAND-MONTAQUE: Okay. Proceed,
13 Ms. Anderson.

14 BY MS. ANDERSON:

15 Q Mr. Powers, I'll repeat the portion that I
16 wanted you to read on Page 27.

17 Can I have you please read the
18 question that appears at Lines 14 through 20 on
19 Page 27.

20 A Yes.

21 "Question: Okay. All right. And
22 then it's -- from a planning perspective, just so

1 it's clear on the record, you indicated that based on
2 the way the City has set up -- or the Village of
3 Elwood is set up, school buses would not be using the
4 proposed new crossing; is that correct?"

5 Q And were you physically present at the
6 hearing when this question was asked as to whether
7 school buses would be using the crossing?

8 A Yes.

9 Q Can I have you continue by reading the
10 answer to that question that was given by Mr. Tonelli
11 that appears on Line 21 of Page 27.

12 A "Answer: That is correct. That's
13 correct."

14 Q And were you physically present at the
15 hearing when that response was given?

16 A Yes.

17 Q Can I have you continue by looking at
18 Mr. Shumate's question that appears on Line 22 of
19 Page 27 of the transcript and continues to Line 1 of
20 Page 28 of the transcript.

21 A "Question: Okay. And that the main use
22 based on the plan is it would be for automobile-type

1 vehicles?"

2 Q And please read the answer to that question
3 given at Line 2 of Page 28 of the transcript.

4 A "That's correct."

5 Q And can I have you finish up by reading the
6 question that appears on Lines 3 through 5 of Page 28
7 of the transcript.

8 A "Question: Okay. And not a major, major
9 access for trucks as would be the case for what
10 the -- for Army Trail? What is it?"

11 Q And what is the answer that was given to
12 that question?

13 A "Answer: It is Baseline to Arsenal Road."

14 Q Okay. Now, were you present and did you
15 consider this testimony in forming your opinions as
16 to what signalization would be necessary at the
17 crossing?

18 A Yes.

19 Q Based on this testimony in the record, what
20 did you conclude about the intended use of the
21 crossing by motor vehicles?

22 A That it was a secondary access mainly used

1 for automobiles and employees of the facility.

2 Q Mr. Powers, can I have you take a look at
3 Page 37 of the transcript.

4 Do you have a copy of Page 37 in front
5 of you?

6 A Yes, I do.

7 Q Can I have you read the question that
8 appears on Page 37 of the transcript at Lines 6
9 through 9 that was asked by Mr. Breslin on
10 cross-examination of the same witness, Mr. Tonelli.

11 MS. ANDERSON: Breslin is spelled
12 B-r-e-s-l-i-n.

13 THE WITNESS: "Question: From a surface
14 transportation standpoint, how does that policy play
15 out in terms of how the traffic from the industrial
16 area versus traffic from the town is, shall we say,
17 separated or channeled?"

18 BY MS. ANDERSON:

19 Q And can I have you read that response to
20 the question given by the witness at Lines 10 through
21 12 of Page 37.

22 A "As we discussed previously, the main truck

1 route in and out of the facility is going to be from
2 Arsenal Road to Baseline Road."

3 Q Were you physically present at the hearing
4 and did you hear this testimony given that appears on
5 Page 37?

6 A Yes.

7 Q And what opinion did you form as to the
8 intended use of the crossing after listening to this
9 testimony that appears on Page 37?

10 A Again, that most of the truck traffic would
11 be utilizing Baseline Road and Arsenal Road.

12 Q Mr. Powers, can I have you take a look at
13 Page 67 of the transcript.

14 Do you have a copy of Page 67 in front
15 of you?

16 A Yes.

17 Q Can I have you read the question that
18 appears on Lines 13 through 15 on Page 67 asked by
19 Mr. Breslin to the witness, Mr. Neil Doyle, spelled
20 N-e-i-l D-o-y-l-e?

21 A "Question: Okay. What's your principal
22 means of access or ingress or egress to the facility

1 from a truck standpoint?"

2 Q And can you read the witness' answer that
3 appears on Lines 16 through 22 on Page 67.

4 A "From a truck standpoint is you have all of
5 the trucks flowing out of the intermodal yard as well
6 as the industrial park. Without question, the main
7 point of ingress and egress to the park is Baseline
8 Road, which Baseline existed from Arsenal down to
9 Drummond in various forms existing throughout the
10 park."

11 Q What opinion did you form concerning the
12 intended use of the crossing based on this testimony
13 that appears on Page 67 of the record?

14 A Again, that the majority of truck traffic
15 would be utilizing Baseline and Arsenal Roads for
16 ingress and egress.

17 Q And did you consider this in relation to
18 your role in the signalization that was developed for
19 the Strawn Road crossing?

20 A Yes.

21 Q Mr. Powers, can I have you take a look at
22 Page 104 of the transcript.

1 Do you have a copy of that in front of
2 you?

3 A Yes.

4 Q Can I have you take a look at the question
5 that appears at Line 19 on Page 104 continuing on to
6 Line 1 of Page 105 that was asked by Mr. Graham,
7 spelled G-r-a-h-a-m, to the witness, Martin Ross,
8 spelled M-a-r-t-i-n R-o-s-s.

9 A "Question: Based upon the testimony that
10 has occurred previously, is there anything with
11 respect to this particular exhibit that you would
12 like to amplify on as you describe the important
13 features of this petition?"

14 Q And can I have you read Mr. Ross' answer
15 that appears on Lines 2 through 20 of Page 105 in the
16 transcript.

17 A "What I would like to amplify on is the
18 importance of the overall roadway system, primarily
19 being that I-55, Arsenal Road and Baseline Road is a
20 major, major access point to the park for the --
21 primarily the trucking -- the trucks that are going
22 to come by primarily because we are going to be using

1 I-80, a major east/west route to the north, and then
2 I-55, the major interstate going north and south; and
3 then the importance of establishing a secondary
4 access point for the CenterPoint Intermodal Center
5 through a connection with Illinois Route 53 mainly to
6 accommodate not so much the heavy trucks that are
7 going to be using the park, but to -- for access for
8 the employees that are going to be in the area that
9 are going to be employed within the park; and the
10 fact that through our planning with the Village of
11 Elwood and with the Will County Highway Department,
12 that there isn't another secondary access point that
13 is usable."

14 Q Were you physically present at the hearing
15 when this question and answer were given in the
16 record?

17 A Yes.

18 Q Did you consider this testimony when you
19 formed opinions about the signalization for the
20 proposed crossing?

21 A Yes.

22 Q Based on this testimony that appears on

1 Page 104 and 105 of the record, what opinion did you
2 form about the proposed use of the Strawn Road
3 crossing by motor vehicles?

4 A That it was going to be a secondary access
5 and mostly used for employees of the facility.

6 Q Mr. Powers, can I have you take a look at
7 Page 106 of the record.

8 Do you have a copy of that in front of
9 you?

10 A Yes.

11 Q With respect to the testimony that's on
12 Page 106, can I have you read the question that
13 appears on Lines 17 and 19 also asked by Mr. Graham
14 of the witness Martin Ross?

15 A "Question: And as you review that, can you
16 point out to the Commission for our understanding
17 what the actual traffic counts are and when the study
18 was done."

19 Q And can I have you read the answer that was
20 given to that question that appears on Line 20 of
21 Page 106 and continues through Line 8 on Page 107.

22 A "Answer: Yeah, I think the important

1 numbers here are the use of East Access Road and the
2 use of Illinois Route 53. East Access Road currently
3 does not exist, so the average daily traffic today is
4 zero.

5 "When full build-out of the industrial
6 park becomes evident, we project 7,000 vehicles per
7 day using East Access Road, you know, out to Route
8 53. Approximately 26 percent of those vehicles will
9 be projected to be trucks -- probably not the
10 heavy-duty WB-65s, but more the UPS trucks, local
11 deliveries coming into there."

12 Q Now, this testimony uses the phrase "East
13 Access Road," correct?

14 A Yes.

15 Q As used in this transcript, do you know
16 what East Access Road is referring to?

17 A I believe it was renamed to Strawn Road.

18 Q With respect to this testimony given in
19 reference to East Access Road, were you present when
20 that testimony was given?

21 A Yes.

22 Q Did you consider that testimony in your

1 development of a signalization plan for the Strawn
2 Road crossing?

3 A Yes.

4 Q Based on the testimony that appears there
5 on Page 106 on to 107 of the record, what opinion did
6 you form concerning the projected use of the Strawn
7 Road crossing?

8 A That it was going to be a secondary access
9 mostly for regular vehicles or smaller trucks.

10 Q Mr. Powers, I have one more portion of the
11 transcript I'd like to refer you to.

12 With respect to the transcript, do you
13 have a copy of Page 198 in front of you?

14 A Yes.

15 Q Can I have you look at Page 198 of the
16 transcript at the question asked by Mr. Shumate of
17 the witness, David McKernan, spelled M-c-K-e-r-n-a-n,
18 that appears on Lines 6 through 8 of 198 in the
19 transcript.

20 A "Question: What is the timetable speed for
21 the trains that operate on Union Pacific's tracks in
22 this vicinity?"

1 Q And can I have you read back the witness'
2 answer that appears on Lines 9 through 12 of the
3 transcript.

4 A "Answer: The Amtrak passenger of which we
5 have six a day is a 79-mile-an-hour; and the local
6 freight, a maximum timetable speed on the Joliet
7 service is 60 for freight."

8 Q Were you present at the hearing when this
9 testimony was given?

10 A Yes, I was.

11 Q Did you consider this testimony in forming
12 an opinion about the proposed signalization for the
13 proposed Strawn Road crossing?

14 A Yes.

15 Q With respect to this testimony, did you
16 reach a conclusion as to the intended volume of
17 trains at that time that would be using this
18 crossing?

19 A Yes.

20 Q Based on this testimony, what did you
21 conclude as to the number of Amtrak passenger trains
22 that would be using the crossing on a daily basis?

1 A Six per day.

2 Q And did you reach a conclusion about the
3 speed of those trains?

4 A Yes.

5 Q What speed did you conclude based on the
6 testimony that was given at the hearing?

7 A That they would be traveling at a maximum
8 speed of 79 miles an hour through the crossing.

9 Q And did you also reach a conclusion
10 concerning the speed of freight trains that would be
11 using the crossing?

12 A Yes.

13 Q What speed is that?

14 A 60 miles an hour maximum speed through the
15 crossing.

16 Q Did you consider the volume and speed of
17 trains when you were working on a signalization plan
18 for this crossing?

19 A Yes.

20 Q Since the time of this initial hearing in
21 T01-0064, have you continued to be familiar with the
22 Strawn Road crossing?

1 A Yes, I have.

2 Q In what way has your familiarity with this
3 crossing continued?

4 A Well, after the crossing was opened, there
5 was a proposal to open a leg opposite -- a highway
6 leg opposite of the crossing that was part of the
7 development on the east side of Route 53.

8 So, again, I was involved with the
9 preliminary engineering review; the Intersection
10 Design Study concurrently with the Illinois
11 Department of Transportation; and also involved in
12 the review of the Phase 2 or construction plans for
13 the traffic signal portion of that project.

14 Q Okay. Did that project ever happen?

15 A Yes, it did.

16 Q Do you have any other sources of continuing
17 familiarity with this crossing?

18 A Yes.

19 Q What are those other sources?

20 A Well, we've been made aware by UP personnel
21 of some conflicts that exist at the crossing.

22 Q When you say made aware of conflicts by UP

1 personnel, what is it that you're referring to?

2 A There's been an instance where traffic --
3 truck traffic in particular has been blocked and --
4 on the crossing because of the inability to exit the
5 crossing in both directions.

6 Q Were you the specific individual who
7 initially received a complaint from the Union Pacific
8 Railroad Company?

9 A No.

10 Q Are you aware of the motion to reopen that
11 Staff has filed in this docket?

12 A Yes.

13 Q Have you continued your familiarity with
14 the crossing since the time that Staff filed a motion
15 to reopen?

16 A Yes, I have.

17 Q Are you aware of whether at this crossing,
18 as we sit in this hearing room today, the use of the
19 crossing by motor vehicles is or is not what was
20 projected based on the testimony given by the
21 witnesses on March 20th, 2002?

22 A I don't believe so.

1 Q When you say "I don't believe so," what do
2 you mean?

3 A According to testimony on the original
4 docket, it appeared that there was going to be little
5 or no use of that crossing for truck traffic. And it
6 appears today that the majority of use of that
7 crossing and the intersection is for truck traffic.

8 Q With respect to the traffic counts
9 discussed in the March 20th, 2002 testimony, are you
10 aware of whether, as we sit here today in today's
11 administrative hearing, the traffic counts are higher
12 or lower than what was testified to on March 20th,
13 2002?

14 A I believe they're higher.

15 Q With respect to the Amtrak train speed, do
16 you know whether, as we sit in today's administrative
17 hearing, that speed is the same or different from
18 what was testified to on March 20th of 2002?

19 A I believe currently it's the same.

20 Q With respect to the number of Amtrak trains
21 that use the crossing on a daily basis, do you know,
22 as we sit in today's administrative hearing, whether

1 that number has changed from what was testified to on
2 March 20th, 2002?

3 A I'm not positive, but I believe that has
4 increased.

5 Q With respect to the speed of freight trains
6 that use the crossing, do you know whether the speed
7 of freight trains, as we sit in this administrative
8 hearing today, has changed from the speed that was
9 testified to at the March 20th, 2002 hearing?

10 A I don't know.

11 Q Mr. Powers, you testified that originally
12 when you were working on the signalization for the
13 proposed Walter Strawn crossing, you were not aware
14 of the volume of funeral processions that was
15 happening at that time?

16 A That's correct.

17 Q Were you aware of a projected volume of
18 funeral processions?

19 A Again, I don't think I heard anything until
20 the hearing itself.

21 Q As we sit in this administrative hearing
22 today, have you become familiar with whether or not

1 funeral processions occur on Route 53 just to the
2 east of the Strawn Road crossing?

3 A Yes.

4 Q Did you take that into account back in 2002
5 when you were working on the signalization for the
6 crossing?

7 A No.

8 Q With respect to the signals that are in
9 place today at the Strawn Road crossing, are you
10 familiar with those?

11 A Yes, the traffic signals.

12 Q As we sit here in today's administrative
13 hearing, do you believe that those signals are
14 effective?

15 A No.

16 Q Why not?

17 A Well, because there is a probability that
18 has been documented that there will be physical
19 constraints for vehicles of any type to exit the
20 crossing in both directions regardless of the
21 signalization.

22 Q And what would cause that issue to occur?

1 A It's been documented on the Illinois 53
2 side of the crossing that funeral processions have
3 caused vehicles to stop on the crossing. And going
4 in a westerly direction, there is an industrial lead
5 track within the facility itself located
6 approximately 1700 feet to the west that has had
7 malfunctioning signals with gates down for an
8 extended period of time that cause queuing over the
9 crossing in a westerly direction as well.

10 Q When you say "it's been documented," can
11 you explain the documentation that you were made
12 aware of concerning these potentials for vehicles
13 being stuck on the tracks at the Walter Strawn
14 crossing?

15 A I believe that both instances were reported
16 by UP -- a Union Pacific Railroad signal maintainer
17 at the crossing to us.

18 MS. ANDERSON: Your Honor, at this time I have
19 no further questions for this witness.

20 JUDGE KIRKLAND-MONTAQUE: Okay. Mr. Shumate.

21 MR. SHUMATE: Yes. Thank you. Mr. Powers --
22 what I'd like to do is, if it's okay with everybody,

1 I'd like to put a print, which is one of the exhibits
2 that Union Pacific was going to have -- it's No. B --
3 and it's a group exhibit. It's consisting of two
4 pages. It shows an overview map of the entire area.
5 It shows the Union Pacific intermodal facility; the
6 Burlington Northern facility; it shows the Village of
7 Elwood; it shows Route 55; it shows Route 53; it
8 shows Walter Strawn Drive.

9 And I think it would be very helpful
10 for you especially, your Honor, to see this to put
11 you in the location if we can. And then it will help
12 with the cross-examination of Mr. Powers.

13 If no one has an objection, I'd like
14 to put that print up.

15 JUDGE KIRKLAND-MONTAQUE: I think that would be
16 helpful for me.

17 MS. ANDERSON: Your Honor, Staff has no
18 objection to the map being displayed during
19 Mr. Powers' cross-examination.

20 MR. SHUMATE: I had a paper copy, but it got
21 taken back from me -- I'm sorry -- otherwise I would
22 put it up, but we do have a slide of it. It will be

1 easy for everyone to see.

2 CROSS-EXAMINATION

3 BY

4 MR. SHUMATE:

5 Q Mr. Powers, I'd like you to see what's
6 Page 1 of Union Pacific Group Exhibit B and it's
7 entitled Union Pacific and BNSF Intermodal Roadway
8 Jurisdiction Map.

9 Can you take a look at that and does
10 that generally reflect the locations of Walter Strawn
11 Road and the Union Pacific Intermodal facility, the
12 BN facility, Route 53 and Route 55?

13 A From my weak eyesight, yes, that's what I
14 can see.

15 Q Okay. Let me say a couple of questions
16 here then -- ask you a couple of questions. Excuse
17 me.

18 When the first hearing was held with
19 regard to what was called East Access Road, now
20 Walter Strawn Drive, was a crossing closed at the
21 same time? Do you recall?

22 A Yes.

1 Q And was that Chicago Avenue?

2 A Yes.

3 Q And then -- so -- and that was just north
4 of where Walter Strawn Road -- Drive -- or Strawn
5 crossing is today?

6 A Yes.

7 Q Okay. Did the Union Pacific have an
8 intermodal facility in any way, shape or form at that
9 time?

10 A I don't believe so, no.

11 Q Okay. And was the Burlington Northern
12 facility, which is south and in the Village of
13 Elwood -- was it in -- under construction or almost
14 complete?

15 A To my recollection, yes.

16 Q Okay. So the -- when you referenced in
17 your testimony and talked about an intermodal yard,
18 that would be at the time just a BNSF facility, not a
19 Union Pacific facility; is that correct?

20 A Yes.

21 Q Okay. Now, you referenced the train
22 speeds. The train speeds that you referenced in the

1 transcript showed the freights moving at 60 miles an
2 hour and I think the Amtrak's at 79.

3 Is that the current speed of the
4 freight trains and the Amtraks today?

5 A Amtraks, yes, I'm not positive about the
6 freight trains.

7 Q Okay. There was also a question with
8 regard to what we've referred to as the Abraham
9 Lincoln National Cemetery.

10 Do you know whether that cemetery
11 existed when the first hearing was held?

12 A I don't believe so.

13 Q Okay. You also referenced an incident when
14 the traffic was backed up in both directions at
15 Walter Strawn Drive; is that correct?

16 A On separate occasions, yes.

17 Q Okay. And was that because of a signal
18 failure at the -- what you described as the
19 industrial lead approximately 1700 feet to the west
20 of the crossing, which is the subject of today's
21 hearing?

22 A I think the signal -- the gates were down.

1 So if that's described as a signal failure, then,
2 yes.

3 Q Okay. But it is the industrial lead
4 crossing, not Walter Strawn?

5 A Yes.

6 Q Okay. And to your knowledge, does the
7 Burlington Northern Santa Fe operate on that track as
8 opposed to the Union Pacific?

9 A I don't know that.

10 Q Do you know whether the Union Pacific
11 operates on that track?

12 A I do not know that.

13 Q Do you recall, when the East Access Road
14 was proposed, that the Union Pacific requested that a
15 consideration of a bridge in lieu of the new access
16 road at-grade crossing be considered?

17 A Yes.

18 Q And do you recall what happened with that
19 request?

20 A It wasn't built and I don't know what --
21 you know, why it wasn't built.

22 MR. SHUMATE: Okay. I have no further

1 questions.

2 JUDGE KIRKLAND-MONTAQUE: Okay.

3 MS. ANDERSON: Your Honor, I don't know if you
4 want me to wait until everybody's done, but I have no
5 redirect based on Mr. Shumate's questions.

6 JUDGE KIRKLAND-MONTAQUE: Okay. Then we'll
7 move on then to the Village.

8 CROSS-EXAMINATION

9 BY

10 MR. STREICHER:

11 Q Mr. Powers, you testified earlier that at
12 the original 2001 (sic) hearing, that full
13 capacity --

14 THE REPORTER: I'm sorry. Can you speak into
15 the mic.

16 MR. STREICHER: Sorry.

17 THE REPORTER: Thank you.

18 BY MR. STREICHER:

19 Q Mr. Powers, you testified that at the 2001
20 hearing there was testimony that full capacity for
21 the facilities would be 7,000 vehicles per day.

22 Do you recall that?

1 A I may have been -- reading the transcript,
2 yes.

3 Q It was on Page 106 beginning at Line 17
4 where it was projected 7,000 trucks per day with full
5 capacity.

6 Do you recall reading that, sir?

7 A Can you reference the page number and the
8 line, please?

9 Q Yes. Page 107, Line 3.

10 A Yes, that's referencing an answer to a
11 question and it was 7,000 vehicles per day, not 7,000
12 trucks per day.

13 Q Okay. Well, with your correction then, do
14 you know the number of vehicles today presently using
15 Strawn Road?

16 A I do not.

17 Q Are you aware that there has not been a
18 full build-out of the CenterPoint facility yet?

19 A I'm not aware of that.

20 MR. STREICHER: Nothing further, your Honor.

21 JUDGE KIRKLAND-MONTAQUE: Mr. Parrish, do you
22 have any questions?

1 MR. PARRISH: We do not.

2 JUDGE KIRKLAND-MONTAQUE: Okay. Mr. Scotti --
3 or -- I'm sorry -- do you have any redirect based on
4 those questions?

5 MS. ANDERSON: No, your Honor.

6 JUDGE KIRKLAND-MONTAQUE: Mr. Scotti.

7 CROSS-EXAMINATION

8 BY

9 MR. SCOTTI:

10 Q Mr. Powers, you had testified that you
11 worked quite a bit to enhance traffic signal
12 interconnects as part of your experience with the
13 Illinois Commerce Commission; is that correct?

14 A Yes.

15 Q And that you worked a lot on revisions of
16 warning times that were adopted by the State and
17 given federal recognition being effective; is that
18 correct?

19 A Except for the last part. It was -- I
20 don't know that it's been federally recognized as far
21 as warning time, is our concern; but statewide,
22 they've been implemented.

1 Q And the purpose of that is to give
2 motorists -- the motoring public more warning before
3 a train goes over a crossing; is that correct?

4 A Yes.

5 Q Is that an effective technique in Railroad
6 safety practices?

7 A When utilized for -- it depends on the
8 utilization of the crossing.

9 Q Is it a generally effective technique to
10 give motorists more warning rather than less warning
11 of an approaching train?

12 A Again, it depends on the specific
13 circumstances of the crossing. So depending on what
14 is exiting the crossing, which is highly
15 unpredictable, warning time may not even be an issue
16 if there's some obstruction exiting the crossing.

17 Q This is a program --

18 THE REPORTER: Counsel, could you put your mic
19 on.

20 BY MR. SCOTTI:

21 Q This is a program you said the State of
22 Illinois invested \$300 million in to do research or

1 to actually implement?

2 A That's been implemented statewide.

3 Q And by implementing, that means you're
4 increasing warning times at crossings statewide?

5 A Specifically for crossings that are
6 interconnected with traffic signals.

7 Q Like the one here at Walter Strawn Drive?

8 A Yes.

9 Q And do you know if there has been a recent
10 modification to the warning time for motorists at
11 Walter Strawn Drive?

12 A Yes.

13 Q And has there been?

14 A I believe so.

15 Q And that was approved by the Illinois
16 Commerce Commission?

17 A Yes, it was.

18 Q In order to make this crossing safer to the
19 motoring public, correct?

20 A I believe it was to try to help with the
21 number of gates that were being hit or broken out
22 there with the existing vehicle mix out there.

1 Q And the intent of the Illinois Commerce
2 Commission to prevent additional gates from being hit
3 or broken was to increase safety at the crossing,
4 correct?

5 A Yes.

6 Q When you were reading the transcript of the
7 different assumptions or information that you were
8 relying upon as far as the types of vehicles in the
9 secondary access, who was testifying?

10 A I think it was various witnesses. I
11 don't --

12 Q The first part I think it was a
13 Mr. Tonelli; is that correct?

14 A Yes.

15 Q And do you know who Mr. Tonelli worked for?

16 A I believe --

17 Q If you don't --

18 A I believe he was a Village witness.

19 Q Village of Elwood?

20 A Yes.

21 Q Now, in the transcript, when you originally
22 worked or assisted on signalization of the Walter

1 Strawn crossing, you had an assumption that there was
2 going to be primarily vehic- -- car traffic as
3 opposed to truck traffic, correct?

4 A Yes.

5 Q How long have you known that's not been the
6 case?

7 A I would imagine nearly since its opening.

8 Q Since 2002 or 2003?

9 A I don't think it was opened until 2004.

10 Q So in 2004, from the very time it was
11 opened, the Illinois Commerce Commission realized
12 that the assumptions under which the crossing was
13 designed were false, correct?

14 A I don't believe that they were false. I
15 think that the design of the traffic signals were
16 designed to try to prevent vehicles from stopping on
17 the crossing regardless of the vehicle type, and that
18 included the installation of presignals in advance of
19 the crossing.

20 Q And, by the way, in use of the term
21 "false," I wasn't implying at all that anybody
22 testified untruthfully, just the assumptions that

1 they went to the hearing with did not bear out to be
2 accurate in all cases, correct?

3 A Yes.

4 Q And that's pretty common when you're
5 dealing with growing areas and sign crossings; isn't
6 that true?

7 A Yes.

8 Q So from the time of 2004 when the Illinois
9 Commerce Commission realized that the mix of trucks
10 and vehicles was different than originally planned,
11 has it made any efforts, up until -- through the time
12 they filed a motion to reopen this hearing, to change
13 anything at the crossing in terms of signalization or
14 otherwise?

15 A Yes.

16 Q What have they done?

17 A There's been instances where stop bar
18 locations and signing have been adjusted to try and
19 help with, we'll say, disobedience of the traffic
20 control devices out there.

21 Q So when you say "disobedience," that's
22 where there's clear signalization and the motoring

1 public disregards it?

2 A Yes.

3 Q Is that a common occurrence at crossings
4 across the state of Illinois?

5 A I wouldn't say it's common.

6 Q Is it a known potential that motorists
7 won't always follow the signalization that's put up
8 at crossings?

9 A It's a potential.

10 Q When the crossing was originally designed,
11 did it take into account the growth that was
12 projected at the hearing moving up to, I think,
13 approximately 7,000 vehicles a day?

14 A As far as the geometry is concerned, the
15 Illinois Department of Transportation was
16 concurrently reviewing the plans, as I stated before,
17 and it had to meet all of the Illinois Department of
18 Transportation standards concerning projected volumes
19 and types of vehicles to be used. So...

20 Q So was the crossing designed to handle a
21 greater volume of traffic than was estimated at the
22 time of the hearing in 2003?

1 A The crossing itself or the --

2 Q The crossing and the signalization which
3 you assisted in.

4 A The crossing and signalization was designed
5 to meet the volumes that were projected on the
6 Intersection Design Study in the preliminary
7 engineering.

8 Q And it didn't account for any potential
9 growth of that region?

10 A I'm not positive about that.

11 Q So it may have or may not have; is that
12 correct?

13 A Possibly.

14 Q Do you know whether or not the majority of
15 vehicles entering the CenterPoint Intermodal Center
16 in or off of Arsenal Road and Baseline Road or off
17 of, alternatively, Illinois Route 53 on Walter Strawn
18 at this time?

19 A Can you repeat that question?

20 Q Sure.

21 You had testified that you had relied
22 upon the Walter Strawn entrance being secondary,

1 correct?

2 A Yes.

3 Q Do you know if it, in fact, is secondary,
4 that there -- and that the exit off of Interstate 55
5 is the primary entrance still?

6 A I don't know that.

7 Q You had mentioned that you had continual
8 familiarity with the crossing after the hearing on
9 which you read testimony from, and that the next
10 instance was when a highway leg was opened on the
11 other side.

12 When was that? Approximately. It
13 doesn't have to be a day.

14 A I think in 2009.

15 Q And at the time in 2009 when that
16 additional highway leg was opened, were there any
17 modifications, signal or otherwise, that you
18 recommended at that time?

19 A The signal modifications had to do with
20 the -- signaling the fourth leg that was being
21 opened.

22 Q And just so I understand, the fourth leg,

1 is that the extension of Walter Strawn going east on
2 the other side of Illinois Route 53?

3 A Yes, it is.

4 Q And so did those -- did the traffic light
5 for that new leg have to be coordinated with Illinois
6 Route 53 and the signalization for the crossing?

7 A Yes, that was made part of one traffic
8 intersection.

9 Q And did you assist in that project?

10 A Yes.

11 Q So in 2009, when you were finished
12 designing that project, were you comfortable that it
13 was safe at that time to do its intended function?

14 A Well, based on past experience, I'm never
15 comfortable because things happen.

16 Q It's just the business you're in, right --

17 A Right.

18 Q -- there's always some risk?

19 A Exactly.

20 Q In every project you've ever worked on
21 there's some risk, correct?

22 A That's correct.

1 Q When you were done with this particular
2 project in 2009, were you as comfortable within
3 professional limits of your occupation that the
4 crossing was designed in a safe manner and the
5 signalization was going to accomplish its intended
6 purpose?

7 A Yes.

8 Q And in 2009 when you assisted in developing
9 that system, were there funeral processions present?

10 A I can't say "yes" or "no" on that. I don't
11 know.

12 Q And at the time in 2009 when you assisted
13 in that process, do you know if the truck counts
14 constituted a majority of the traffic over the
15 crossing at that time?

16 A I would not know the specifics on the
17 volumes and on the percentages, so I can't answer
18 that question.

19 Q Was it your observation from being there
20 from -- on site when you were designing the system,
21 did you observe more trucks than vehicles?

22 A I did.

1 MR. SCOTTI: I don't have any more questions of
2 this witness.

3 Thank you very much.

4 JUDGE KIRKLAND-MONTAQUE: Ms. Anderson, any
5 redirect?

6 MS. ANDERSON: Your Honor, I do have a brief
7 redirect. Maybe we could close the door.

8 JUDGE KIRKLAND-MONTAQUE: Sure.

9 REDIRECT EXAMINATION

10 BY

11 MS. ANDERSON:

12 Q Mr. Powers, Mr. Scotti had asked you about
13 whether your revisions that you worked on concerning
14 increased warning times had gained some sort of
15 federal recognition and you said "no," correct?

16 A Yes.

17 Q With respect to the work that you did at
18 the Illinois Department of Transportation, what was
19 it, if anything, that was adopted federally?

20 A As far as national standards, there's some
21 guidelines out there in the design of these types of
22 systems and some of the things that have happened

1 nationally are the circuit -- the interconnect
2 circuit between the railroad warning devices and the
3 highway signals that seems to have gained some
4 traction such that if there's a failure, that there
5 would be a reaction on the traffic signal side.

6 Additionally, there's some software
7 enhancements on the traffic signal side to help
8 better respond to events that have -- by the nature
9 of their vendors, have gone national.

10 Q And you worked on the development of that
11 at the state level in Illinois?

12 A I helped in the development, yes.

13 Q You were asked the question if generally
14 adding additional warning time for motorists at a
15 grade crossing is an effective safety measure,
16 correct?

17 A Yes.

18 Q Why are you not able to answer that
19 question generally?

20 A I think it's a general statement that, as I
21 said before, you can't predict what is happening
22 exiting a crossing in any event. So you could have a

1 minimal amount of warning time or you could have an
2 excessive amount of warning time and if a vehicle is
3 not able to exit the crossing based on downstream
4 conditions, then the amount of warning time really --
5 it wouldn't be a factor.

6 MS. ANDERSON: Do you want me to continue?

7 JUDGE KIRKLAND-MONTAQUE: Why don't you wait
8 until that stops.

9 Okay. I think it's done.

10 I think you're okay.

11 MS. ANDERSON: Thank you, your Honor.

12 BY MS. ANDERSON:

13 Q Mr. Powers, can you just describe for us
14 generally, so we're all clear, what is warning time?

15 A Well, there are -- basically the warning
16 time is the time between the activation of the
17 railroad warning devices and the arrival of the train
18 at the crossing.

19 Q How do you consider warning time as a
20 factor in the signalization of a crossing?

21 A Warning time is calculated to -- for
22 traffic signal interconnects, it can be calculated

1 two ways and one -- and what the State of Illinois
2 uses is called simultaneous preemption, in that as
3 soon as the railroad devices are activated, the
4 highway traffic signals activate simultaneously to
5 clear off the crossing.

6 And one of the reasons that we
7 prescribe to the simultaneous type of preemption in
8 Illinois is to get a physical barrier, which would be
9 the railroad gate, down as soon as possible so that
10 exiting traffic off the crossing has time to exit the
11 crossing.

12 There's another way of doing traffic
13 signal interconnects and that's called advance
14 preemption where the -- an indication is sent to the
15 traffic signal controller to react to an upcoming
16 train event before the warning devices on the
17 railroad side are activated. And some states adhere
18 to that and that they'd like to see less gate
19 activation time and that's something that the State
20 of Illinois disagrees with because we feel that the
21 gates should be activated earlier in that sequence
22 such that any downstream resistance to vehicles

1 getting off the tracks have more of an opportunity to
2 get off the tracks.

3 And when I say "downstream," I mean
4 things that are beyond the crossing, such as -- it
5 could be anything. It could be a bus stop; it could
6 be a garbage truck that's stopped further downstream;
7 it could be a funeral procession; it could be a
8 parade; it could be anything that could inhibit
9 vehicles from exiting the crossing.

10 Q Mr. Powers, the Strawn Road crossing is a
11 crossing that uses simultaneous preemption, correct?

12 A That's correct.

13 Q And that has always been the case, correct?

14 A Yes.

15 Q As we sit in this administrative hearing
16 today, is the Walter Strawn Road crossing using the
17 simultaneous preemption able to operate effectively
18 to prevent accidents at that crossing?

19 A No, I don't believe so.

20 Q Why?

21 A As I've stated before, there's been
22 documented cases of obstructions exiting the crossing

1 in both directions and that regardless of what type
2 of signalization on the traffic signal side or the
3 railroad side is implemented, it would not solve the
4 issue of the physical ability of vehicles not being
5 able to exit the crossing because of physical
6 obstructions on both sides.

7 Q Mr. Powers, you were asked by Mr. Scotti
8 concerning whether you knew since as early as 2004
9 that some of the assumptions as to use of the
10 crossing by motor vehicles were not correct.

11 You were asked about that, correct?

12 A Yes.

13 Q Do you have personal knowledge of the
14 traffic counts at the Walter Strawn Road crossing in
15 2004?

16 A No.

17 Q Do you have personal knowledge of the
18 Walter Strawn Road traffic counts in 2009?

19 A No.

20 Q Do you have personal knowledge as of the
21 date of today's administrative hearing of the traffic
22 counts at the Walter Strawn Road crossing?

1 A No.

2 Q Do you know if -- strike that.

3 Mr. Powers, you referred to an
4 additional highway leg opening to the east of
5 Illinois Route 53 being approximately in 2009,
6 correct?

7 A Yes.

8 Q Do you know whether today that highway leg
9 that you referred to in your testimony is called Ira
10 Morgan Drive spelled I-r-a M-o-r-g-a-n?

11 A I don't know for a fact, but that sounds
12 familiar to me.

13 Q Mr. Powers, if I could take you back to
14 your testimony about the traffic counts at the
15 crossing, do you have personal knowledge of whether
16 in 2004 there were more commercial motor vehicles
17 than noncommercial motor vehicles using the Strawn
18 Road crossing?

19 A Can you repeat that, please?

20 Q Yes.

21 My question was, do you have personal
22 knowledge as of 2004 whether there were more

1 commercial motor vehicles than noncommercial motor
2 vehicles using the Strawn Road crossing?

3 A Personal knowledge, no.

4 Q Do you have personal knowledge whether in
5 2009 there were more commercial motor vehicles than
6 noncommercial motor vehicles using the Strawn Road
7 crossing?

8 A No.

9 Q And as we sit in today's administrative
10 hearing, you do not know what the actual traffic
11 counts are for the crossing, correct?

12 A That's correct.

13 MS. ANDERSON: Your Honor, I have no further
14 questions for the witness.

15 MR. SHUMATE: Your Honor, I do have one based
16 on the redirect that I think needs to be clarified
17 for everybody here, if I could just --

18 JUDGE KIRKLAND-MONTAQUE: Okay.

19 MR. SHUMATE: -- ask it. It's one question.

20 MR. SCOTTI: I have very brief recross as well.

21 JUDGE KIRKLAND-MONTAQUE: Okay. Go ahead,
22 Mr. Shumate.

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RECROSS-EXAMINATION

BY

MR. SHUMATE:

Q Mine is a general matter, just --
Mr. Powers, you referred to the transcript earlier
today and -- from the previous hearing. And there
was some testimony from a Mr. Miller, who I think was
a traffic engineer for TranSystems. And you referred
to Page 106. If you can take a look at that, it's
called a secondary access CenterPoint Intermodal.
That was Lines 11 and 12.

And if you go back in that testimony,
there are some projections that TranSystems gave.
And so I'd like to direct your attention to Page 107
of the transcript and just -- I'd like you to just --
to read for us here, since you were present at the
hearing, Line 2 through Line 16, if you would.

A "When full build-out of the industrial park
becomes evident, we project 7,000 vehicles per day
using East Access Road across -- you know, out to
Route 53. Approximately 26 percent of those vehicles
will be projected to be trucks -- probably not

1 heavy-duty WB-65s, but more of the UPS trucks, local
2 deliveries coming into there.

3 "The Illinois Route 53 traffic,
4 currently it's about 9,900 vehicles per day and it's
5 projected out to be 18,100 vehicles per day. In
6 comparison, the traffic on Arsenal Road, the main
7 access point, today's traffic volumes are
8 approximately 4,800 vehicles per day; and Arsenal
9 Road is going to see a growth between 26,000 and
10 30,000 vehicles per day."

11 Q Okay. And the reason I ask that is this
12 puts it in perspective with regard to both Route 53
13 and Route 55; is that correct?

14 And this is a projection from a
15 traffic engineer; is that correct?

16 A I just heard Route 53 and Arsenal Road. I
17 didn't hear Route 55.

18 Q Well, when they said Arsenal Road is going
19 to see growth between 26,000 and 30,000 vehicles per
20 day, I think based on the totality of this, they're
21 talking about using Route 53 -- I mean, Route 55.

22 Do we agree with that?

1 A Yes.

2 Q Okay. So when this crossing was developed,
3 there was testimony that there would be significant
4 growth.

5 And this testimony is from when?
6 2001; is that correct?

7 A I think --

8 Q From the hearing.

9 A I think it was, yeah, 2002.

10 Q 2002. I stand corrected. Thanks.

11 So -- but, as you've testified
12 earlier, the funeral procession aspect was not in
13 existence at this time; is that correct?

14 A Yes.

15 MR. SHUMATE: Okay. Thank you.

16 JUDGE KIRKLAND-MONTAQUE: Mr. Scotti.

17 RE CROSS-EXAMINATION

18 BY

19 MR. SCOTTI:

20 Q Mr. Powers, the Illinois Commerce
21 Commission keeps track of accidents and collisions at
22 crossings across the state of Illinois, don't they?

1 BRIAN VERCRUYSSÉ,
2 called as a witness herein, having been first duly
3 sworn, was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY

6 MS. ANDERSON:

7 Q Mr. Vercruysse, could I have you state your
8 name and spell your first and last name for the court
9 reporter, please.

10 A Yes. Brian Vercruysse, B-r-i-a-n V-, as in
11 Victor, -e-r-c-r-u-y-s-s-e, Vercruysse.

12 Q Are you currently employed with the
13 Illinois Commerce Commission?

14 A Yes.

15 Q What is your current job title?

16 A I'm a senior rail safety specialist.

17 Q How long have you worked for the Illinois
18 Commerce Commission?

19 A Over 14 years.

20 Q And during that 14-year period, what have
21 your job duties been?

22 A We are responsible for the safety at all

1 public highway-rail grade crossings in the state of
2 Illinois from programming, design, construction, all
3 the way to operations and accident management and
4 reviews.

5 Q And when you say "we," does that include
6 you?

7 A That includes me, yes.

8 Q With respect to highway grade (sic)
9 crossings, what are some of your job duties that you
10 do to help carry out the Commission's authority?

11 A One of the main aspects is reviewing
12 different crossings and proposals by either a
13 railroad or by a highway agency. Also we are out for
14 inspections to make sure things are functioning
15 properly and we continue and try and help educate and
16 provide the safest design at these crossings.

17 Q And when you say "we," does that include
18 you?

19 A Yes, it does.

20 Q Apart from your work experience at the
21 Illinois Commerce Commission, do you have any other
22 experience in the area of rail safety?

1 A Yes. When I started at the Illinois
2 Department of Transportation out of college, I worked
3 there for eight years and my first function was with
4 the Traffic Signal Operation Group in 1995 and we had
5 quite a few dealings with highway-rail intersections
6 and adjacent traffic signals.

7 Q Okay. So just to clarify, how long did you
8 work at the Illinois Department of Transportation?

9 A Eight years.

10 Q And what did you do at the Illinois
11 Department of Transportation that was related to rail
12 crossings?

13 A Related to rail crossings, in 1995 after
14 the Fox River Grove accident with the school bus, I
15 was in the Traffic Signal Operations Group that went
16 on and reviewed all of the crossings within the
17 Chicagoland area. We continued to then see studies
18 and try and improve and better the design for
19 highway-rail crossings within the state of Illinois
20 and, specifically, the Chicago area.

21 I also was involved with project
22 environmental studies with various bridge projects

1 that included converting at-grade crossings to
2 highway-rail grade separations and other track
3 facilities and things of that nature.

4 Q Did your duties at the Illinois Department
5 of Transportation involve signalization at highway
6 grade crossings?

7 A It involved the traffic signal aspect as
8 the primary and then we had the interconnection with
9 the warning devices was how that related, yes.

10 Q Okay. Can you explain the duties that you
11 had at the Illinois Department of Transportation
12 related to the interconnection of signals as well as
13 the traffic signalization.

14 A It was relative to the timing at the
15 intersections and at the crossings and then trying to
16 assess if the warning time was sufficient and then
17 also doing the physical studies, actually taking the
18 measurements, going through all the locations and
19 seeing exactly what the existing conditions and what
20 the safety concerns were at all of the crossings.

21 Q Okay. You have been present in this
22 hearing room the whole time that we've been on the

1 record today, correct?

2 A Yes.

3 Q Did you hear me question Mr. Powers as to
4 the Strawn Road crossing?

5 A Yes, I did.

6 Q Are you familiar with what we have been
7 referring to on the record as the Strawn Road
8 crossing?

9 A Yes, I am familiar.

10 Q How did you first become familiar with the
11 Strawn Road crossing?

12 A In the time frame when the crossing was
13 first opened, as Mr. Powers identified, in 2004, I
14 started in on the case when we had requests by the
15 Union Pacific Railroad for supplemental funding and
16 extensions of time. I ended up being a part of those
17 hearings and in those situations.

18 And then as the industrial public --
19 or the CenterPoint crossing, the lead that was
20 developed 1700 feet away from the crossing, another
21 industry track, I was involved with that in 2006.
22 Those were the first involvement points I had.

1 Q Okay. Since that time between about 2004
2 and 2006, have you had continuing familiarity with
3 the Strawn Road crossing?

4 A Yes, I have.

5 Q Explain the nature of that familiarity,
6 please.

7 A In that time frame, my first interactions
8 were with the crossing surface and how it was being
9 damaged by trucks in the area and the heavy loads
10 through this -- this segment. We also had initial
11 calls relative to how the traffic signals were being
12 adhered to. And, as Mr. Powers had noted, the stop
13 bars were relocated. We had met with law enforcement
14 at that time to see how the trucks were operating and
15 to see if something could be done.

16 And subsequent to that and more
17 recently in February and March of 2013, we received a
18 complaint or an inquiry from the Village and the
19 state representative regarding the industrial track
20 lead 1700 feet to the west and how a false activation
21 created a backup all the way to the Union Pacific's
22 crossing. And at that point a maintainer was present

1 and was able to put a slower on the crossing when an
2 Amtrak was in the area.

3 After that complaint, in June we
4 received another complaint from the Union Pacific
5 signal manager at the time that various trucks and
6 other vehicles were making right-hand turns on red
7 and that they were going through the presignals and
8 that the pavement marking was in need of renewal; but
9 at the same time that signal manager also identified
10 that there was a truck stopped on the tracks for over
11 2 minutes while a funeral procession progressed.

12 Q Mr. Vercruysse, let me stop you there for a
13 minute.

14 You referenced an industrial lead
15 track as well as what you referred to as the Union
16 Pacific's track, correct?

17 A Correct.

18 Q The industrial lead track, describe for us
19 where that is geographically in relation to the
20 Strawn Road crossing.

21 A From the Strawn Road crossing it's
22 approximately 1700 feet west of the Union Pacific

1 Strawn Road crossing.

2 Q Okay. With respect to what you refer to in
3 your testimony as the Union Pacific track, are you
4 referring to the Strawn Road crossing?

5 A Yes, I am.

6 Q So is it your testimony that one of your
7 bases for familiarity is in 2013 receiving a
8 complaint concerning the false activation at the
9 industrial lead track which resulted in backup of
10 vehicles onto the Strawn Road crossing?

11 A That is correct.

12 Q Then you mentioned receiving another
13 complaint in June of 2013, correct?

14 A That's correct.

15 Q Okay. What was that complaint?

16 A That complaint was from the signal manager
17 relative to the Strawn Road crossing and specifically
18 that a truck had been sitting on the crossing for
19 over 2 minutes while a funeral procession progressed
20 southbound on Illinois Route 53.

21 Q Mr. Vercruysse, I am going to show you a
22 copy of what we have marked and prefiled as a

1 proposed hearing exhibit of Staff Exhibit 1.

2 Do you recognize this exhibit?

3 A I do.

4 Q Did you prepare this exhibit for the
5 purpose of today's hearing?

6 A I did.

7 Q What generally is shown in this exhibit?

8 A Generally in this exhibit it's four
9 location maps at different points of view from
10 regional down to a zoom-in of the crossing itself.

11 Q And how did you create this exhibit?

12 A This exhibit was taken from aerial data
13 provided by Google Maps and then I believe one also
14 was from MSN or Microsoft.

15 Q You personally did not take these
16 photographs, correct?

17 A That's correct.

18 Q What is it that you are trying to
19 illustrate in the images that are shown on Staff's
20 Exhibit 1?

21 And for this purpose, feel free to
22 highlight that using the projected version on the

1 screen so everyone can see.

2 A Okay. On Page 1 I'm trying to show the
3 region and the relationship of the interstate system,
4 the BNSF and Deer Run Intermodal Facility, the
5 Village of Elwood and Union Pacific Railroad.
6 Towards the top middle section of the page, we see
7 the Union Pacific emblem that shows their Global IV
8 or the Joliet Intermodal Facility. Towards the
9 bottom center of the crossing, we have the BNSF
10 Intermodal Facility. Highlighted in the blue star is
11 the actual Strawn Road crossing that we were
12 referring to. I have an "A" mark that shows the
13 Village of Elwood.

14 On the outsides of the exhibit -- and
15 it's faint on the screen here -- we have I-55
16 tracking along the left side and on the top of the
17 page is I-80. To the right of the emblem of the
18 Union Pacific Railroad, we have Illinois Route 53
19 that is southbound and then turns to go
20 southwestbound toward the Strawn Road crossing and
21 the BNSF Railroad.

22 Should I continue with the other

1 pages?

2 Q Yes, please explain what is contained on
3 Page 2 of Staff's Exhibit 1.

4 A This is zooming in a little closer in
5 detail. Again, the blue star represents the area of
6 the Strawn Road crossing, and then the residential
7 area is noted just to the north of that or just above
8 on the page of the Village of Elwood. To the west we
9 have the industrial and the warehousing area and then
10 we have the intermodal facility or the yard tracks
11 with the BNSF Intermodal.

12 Along the right-hand side, again,
13 going from northeast to southwest, we have Illinois
14 Route 53, and through the star we have Strawn Road.
15 Starting at Illinois Route 53, the middle of the page
16 continuing towards the BNSF facility, and then to the
17 right-hand side we have Ira Morgan Drive that heads
18 towards the Bissell warehousing area.

19 As we continue --

20 Q Mr. Vercruysse, if I could just stop you
21 there for a moment. And could you please highlight
22 on this image the location approximately of the

1 Strawn Road crossing and then also what you referred
2 to as the industrial lead crossing.

3 A The Strawn Road crossing is identified as
4 the blue star in this area and it runs parallel to
5 Illinois Route 53 in this section. So it's on the
6 right-hand side, middle of the page. And then
7 1700 feet to the west along a curve that comes just
8 south of the blue star we have the track cross Strawn
9 Road.

10 Also in this picture further south is
11 Hoff Road approximately a half-mile from the Strawn
12 Road crossing and the Abraham Lincoln National
13 Cemetery area further south and at the bottom middle
14 of the page.

15 Q Mr. Vercruysse, I'm looking at the hard
16 paper copy of Page 2 of Staff's Exhibit 1. As I look
17 at my copy, it looks like the image of the track
18 where it crosses with Walter Strawn Drive is just to
19 the right of the blue star.

20 Is that accurate?

21 A That's accurate, yes.

22 Q Mr. Vercruysse, can I have you describe

1 what is shown on Exhibit (sic) 3 of Staff Exhibit 1.

2 A Yes. On Page 3 it zooms in on the aerial
3 to show the intersection in a little more detail and
4 show how the residential areas to the north, the
5 warehousing districts along Strawn Drive to the west,
6 and then how Ira Morgan and its facilities and a
7 residential property in that southeast corner lies.

8 It also shows with the gray and white
9 marking the location of the railroad track with the
10 Union Pacific Railroad near the blue star and then
11 the curve that I had mentioned in the previous
12 exhibit becomes the industrial park lead.

13 Q Okay. And, Mr. Verduyck, can I have you
14 describe what's shown on Page 4 of Staff's Exhibit 1.

15 A On Page 4 we have a street view taken off
16 the Google Map that provides a view of the Strawn
17 Road crossing, as we discussed it already, as its
18 labeled today and it's looking westbound. We see
19 there in the distance in the middle of the page is a
20 truck waiting at the presignal for the crossing
21 itself.

22 The lower area is an aerial that was

1 taken, again, off of Google and it shows the crossing
2 closed while roadway work is being completed in the
3 area.

4 Q Mr. Vercruysse, have you had occasion
5 personally to visit the location of the Strawn Road
6 crossing?

7 A Yes, I have.

8 Q Have you also personally visited the
9 industrial lead crossing?

10 A Yes, I have.

11 Q Based on your personal observations, are
12 the images as they're shown in Staff's Exhibit 1 a
13 fair and accurate representation of the location of
14 the Strawn Road crossing and surrounding area?

15 A Yes, they are.

16 Q So the State of Illinois didn't offer to
17 pay for a helicopter so you could take your own
18 photos?

19 A That's correct.

20 MS. ANDERSON: Your Honor, at this time I would
21 offer Staff's Exhibit 1 into evidence.

22 MR. SHUMATE: No objection from the Railroad.

1 JUDGE KIRKLAND-MONTAQUE: Village?

2 MR. STREICHER: No objection.

3 MR. PARRISH: No objection.

4 MR. SCOTTI: No objection from CenterPoint.

5 JUDGE KIRKLAND-MONTAQUE: Staff's Exhibit 1 is
6 admitted.

7 (Whereupon, Staff's Exhibit
8 No. 1 was admitted into
9 evidence.)

10 JUDGE KIRKLAND-MONTAQUE: Ms. Anderson, if I
11 could just ask -- if I could just make sure I'm clear
12 on where the industrial lead is, could you please
13 point that out to me, Mr. Vercruysse.

14 THE WITNESS: Yes, your Honor. I'm sorry. Let
15 me bring back the exhibit.

16 JUDGE KIRKLAND-MONTAQUE: Page 3 of the --

17 THE WITNESS: Yes, your Honor, the industrial
18 park lead starts at a point where it has a switch off
19 the Union Pacific Railroad and then continues
20 somewhat on a north before going west alignment and
21 crosses over Strawn Road at the angle here.

22 JUDGE KIRKLAND-MONTAQUE: Okay.

1 THE WITNESS: This is the 1700-foot distance
2 from this point over to the Union Pacific tracks.

3 JUDGE KIRKLAND-MONTAQUE: Thank you.

4 MS. ANDERSON: Your Honor, may I continue?

5 JUDGE KIRKLAND-MONTAQUE: Yes.

6 MS. ANDERSON: Thank you.

7 BY MS. ANDERSON:

8 Q Mr. Vercruysse, can I have you take a look
9 at Staff's Exhibit No. 7.

10 A Yes. Okay.

11 Q Do you recognize -- and I'll hand you a
12 paper copy as well. Do you recognize what we have
13 prefiled and marked as Staff Exhibit No. 7?

14 A I do recognize it, yes.

15 Q What do you recognize that exhibit to be?

16 A This is an e-mail from the Union Pacific
17 signal manager at the time identifying the concerns
18 that he saw at the crossing in June of 2013.

19 Q And when you said the Union Pacific's
20 signal manager at the time, could you state and spell
21 his name for the court reporter, please.

22 A His name Joe Fleck, J-o-e, and then Fleck,

1 F-l-e-c-k.

2 Q Earlier in your testimony you referenced
3 receiving a complaint from the Union Pacific Railroad
4 Company's signal manager concerning a truck being
5 stuck on the track at the Walter Strawn crossing,
6 correct?

7 A That's correct.

8 Q Is what you described as a complaint
9 documented here in Staff's Exhibit 7?

10 A It is.

11 Q Can you describe for us generally what is
12 contained in Staff's Exhibit 7.

13 A Yes. On the front page, it is going
14 through -- giving my response that we were looking
15 into the situation. And from June 26th, he had
16 provided the e-mail to me. And starting on Page 2,
17 Mr. Fleck starts to categorize the different issues
18 that he saw with the crossing, what I believe is on
19 June 25th, as he notes in here that his "observations
20 at Strawn Road yesterday." The number one is truck
21 stopped past the hold signal and past the stop bar.
22 And he notes further items as far as in certain

1 cycles, the main signal is green while the old signal
2 is red, confusing drivers.

3 Q Okay. Let me stop there for a second.

4 A Yes.

5 Q This may be a good time just to clarify for
6 us.

7 What you just read was Mr. Fleck's
8 comments directed to you beneath --

9 A That's correct.

10 Q -- Item No. 1, Truck stopped past hold
11 signal; is that correct?

12 A That's correct.

13 Q Are you able to explain using the
14 photograph that appears below that item on Page 2 of
15 Staff's Exhibit 7 what Mr. Fleck is alerting you to?

16 A In this photo, Mr. Fleck is showing where
17 the tractor-trailer and the semi is stopped past the
18 presignal and stopped past the stop bar -- the stop
19 bar is located closer towards the trailer tandem
20 wheel assembly -- and that they're out of view of the
21 presignal.

22 MR. SCOTTI: By the way, for the record, I just

1 wanted to note that we're objecting to this testimony
2 to the extent it's being presented as the truth of
3 the matter asserted by Mr. Fleck, but not as to
4 Mr. Vercruysse's receiving the e-mail and acting upon
5 it. I didn't want anybody to think the things that
6 Mr. Fleck said in here were verified in any way
7 unless that's established separately, unless he
8 testifies.

9 JUDGE KIRKLAND-MONTAQUE: Ms. Anderson, are you
10 presenting it for that purpose? Are you using it?

11 MS. ANDERSON: Yes, your Honor. I am using
12 this exhibit both to lay the foundation for the
13 process that eventually became Staff's motion to
14 reopen and Mr. Vercruysse's actions in response to
15 the exhibit.

16 In addition to that, the exhibit is
17 being offered for the truth of the matter asserted.
18 You know, these are e-mails from Mr. Fleck to
19 Mr. Vercruysse and, perhaps, it might allay Counsel's
20 concern a little bit if, perhaps, I laid some more
21 foundation for these -- receipt of the e-mails.

22 But I believe what Mr. Vercruysse's

1 testimony is going to continue to show, if he's
2 allowed to proceed, is that this type of
3 communication is something that he receives
4 ordinarily in the course of his job duties at the
5 Illinois Commerce Commission.

6 And even though he's not the one who
7 took the photographs, he's not the one who took the
8 e-mail -- and I'm not sure if Mr. Scotti is trying to
9 get at this being a potentially hearsay exhibit --
10 but I think given the Commerce Commission's ability
11 to consider testimony, give it the credibility to --
12 degree of credibility to which it's due and develop a
13 full and complete record at these administrative
14 proceedings, that this is something that he regularly
15 relies upon and should be admitted into evidence once
16 we have continued with the testimony concerning this
17 exhibit and laid a full and proper foundation.

18 JUDGE KIRKLAND-MONTAQUE: All right. I'm going
19 to allow her to continue to lay the foundation. I'll
20 reserve my ruling on your objection.

21 MR. SCOTTI: Thank you, your Honor.

22 Just so you know, we have no objection

1 to Mr. Vercruysse using this based on it being a
2 catalyst for him to investigate or look at things
3 whatsoever. Just to restate it, we just -- we don't
4 want it to be assumed that Mr. Fleck's personal
5 observations are, in fact, the truth.

6 I mean, for example, we don't know if
7 these are pictures of motionless vehicles or moving
8 vehicles unless the person who took them is here to
9 testify about those things. So I'll --

10 JUDGE KIRKLAND-MONTAQUE: Okay. I'll note your
11 objection. I'll rule on it after I let Ms. Anderson
12 continue.

13 BY MS. ANDERSON:

14 Q Okay. Mr. Vercruysse, let's back up for
15 just a moment.

16 Staff's Exhibit 7, this is what you're
17 representing is the complaint that you received from
18 Joe Fleck, the signal manager of the Union Pacific
19 Railroad Company, correct?

20 A Yes.

21 Q As you flip through the pages of this
22 exhibit, how were you transmitted this information

1 and from whom did you receive this information?

2 A I received this information from Mr. Fleck
3 via e-mail.

4 Q Okay. The version of the exhibit that you
5 have in front of you in total is eight pages long,
6 correct?

7 A Yes.

8 Q Okay. So the e-mails, it looks like
9 they're in maybe like reverse chronological order; is
10 that correct?

11 A That's correct.

12 Q Okay. So if you flip to the back of the
13 exhibit and work your way forward, when was the first
14 e-mail of this chain sent?

15 A On Page 5 Mr. Fleck attempted to e-mail me
16 on May 6th, 2013, but he had my e-mail address
17 incorrect.

18 Q Okay. And can you highlight on Page 5
19 where that e-mail address appears?

20 A On the top of the page in blue with an
21 underline is where it is noted, where it starts
22 "BVERAR."

1 Q Okay. Is that your e-mail address?

2 A No, it is not.

3 Q When was the next communication or
4 attempted communication in this chain of e-mails?

5 A If we go back to June 26th, that is when I
6 received the e-mail then. And that is noted on
7 Page 2 of the group exhibit.

8 Q Okay. And does that information also exist
9 partially on the bottom of Page 1 of the exhibit?

10 A That's correct.

11 Q With respect to the e-mail that -- as it
12 was sent to you on June 26th, 2013, do you recognize
13 that as being an e-mail from Joe Fleck of the Union
14 Pacific Railroad Company?

15 A Yes, I do.

16 Q How are you able to recognize that?

17 A On Page 1 just below the midpoint of the
18 e-mail it has the item "from Joe W. Fleck" and his
19 e-mail address.

20 Q Prior to receiving this e-mail, had you
21 ever communicated with or heard from Mr. Fleck
22 before?

1 A Not to my recollection, no.

2 Q In the course of receiving these e-mails,
3 did you have occasion to correspond with Mr. Fleck?

4 A Yes, I did.

5 Q Can you describe to me when you first
6 communicated with Mr. Fleck.

7 A On the next date, Thursday, June 27th, I
8 e-mailed him back identifying and -- thanking him for
9 the information and identifying what we would look to
10 do.

11 Q How did you come to associate the e-mail
12 from Mr. Fleck that was sent to you on June 26th,
13 2013, at 4:28 p.m. as being an e-mail from a signal
14 manager of the Union Pacific Railroad Company?

15 A Within our organization, our Rail Safety
16 section, we have our signal inspectors and we're able
17 to gain information from them as far as who the
18 signal managers are in a certain area. And I believe
19 I contacted him to see who this was.

20 Q Okay. Subsequent to that contact, did you
21 make any determination as to the identity of the
22 sender of the e-mail?

1 A Subsequent to this, yes.

2 Q And what did you conclude about the
3 identity of the sender of the e-mail?

4 A That he was the manager of Signal
5 Maintenance for the Union Pacific Railroad in this
6 area.

7 Q Mr. Vercruysse, in receiving this type of
8 e-mail -- strike that.

9 Mr. Vercruysse, in your job duties do
10 you routinely receive communications from railroad
11 signal managers?

12 A Yes, we do.

13 Q Can you describe under what circumstances
14 you receive those communications?

15 A Sometimes it could be for a routine
16 inspection; other times it could be for a concern at
17 a crossing or an issue that they'd like to highlight.

18 Q When you receive communications from
19 railroad signal managers, do you take any steps
20 personally to identify the sender of those
21 communications as a railroad signal manager?

22 A If we do not know the person directly, then

1 we will make the attempt, yes.

2 Q And did you do that in this case?

3 A I can't recall.

4 Q Can you remind me again how you figured out
5 that Joe Fleck was a signal manager?

6 A In working with our other Staff
7 representatives, including our signal inspectors who
8 work more directly with the signal managers, I
9 believe I contacted him.

10 Q And when you say "him," who are you
11 referring to?

12 A This is David Ohlfs.

13 Q And can you spell David Ohlfs' name for the
14 court reporter, please.

15 A Last name Ohlfs, O-h-l-f-s.

16 Q And what is David Ohlfs' relationship to
17 the Illinois Commerce Commission?

18 A He is our signal inspector -- or one of our
19 signal inspectors.

20 Q When you -- strike that.

21 Mr. Vercruysse, in the course of your
22 job duties at the Illinois Commerce Commission, do

1 you regularly respond to inquiries or complaints
2 concerning safety issues at crossings?

3 A Yes, I do.

4 Q When you receive such an inquiry or a
5 complaint from a railroad signal manager, what do you
6 typically do in response to that?

7 A As one, I'll review the information and
8 review the documentation or whatever they may
9 provide, and then I will assess if we need to add
10 other personnel or set up a field review or other
11 coordination.

12 Otherwise, we do have a tracking
13 process for other complaints that we may just go
14 through and highlight, you know, the information
15 also.

16 Q In response to receiving this series of
17 e-mails for Mr. Fleck, what did you do?

18 A I contacted the various representatives
19 from our office to discuss -- especially the issue
20 where it was noted that the truck was sitting on the
21 tracks for over 2 minutes. So I started to inform
22 all the different people within our group.

1 And then subsequent to that, we
2 started to coordinate a meeting with all of the
3 parties, including the Village, the Railroad, and the
4 Illinois Department of Transportation.

5 Q So, Mr. Vercruysse, at this time it sounds
6 like it might be a good point to jump back to the
7 actual content of the e-mails that prompted you to
8 begin your investigation.

9 If I could have you return your
10 attention to Page 2 of Staff's Exhibit 7, can you
11 refresh us as to what you observed based on
12 Mr. Fleck's representations and the statement about
13 trucks being stopped past the hold signal as shown in
14 this photograph.

15 A On Page 2 in the first bullet point,
16 "trucks stopped past the hold signal," it shows the
17 truck stopped past the stop bar where the stop bar is
18 more closely at his trailer area or the tandem axle
19 and that he is farther past the traffic signals.

20 Q Okay. And can you please highlight on the
21 projected version the location of the stop bar.

22 A Yes, it's highlighted off to the right-hand

1 side of the page near the trailer assembly itself.

2 Q Okay. And what other conditions did this
3 photograph draw your attention to?

4 A We see the truck passed the presignal
5 locations and getting closer towards the railroad
6 gate and flasher assembly off to the left.

7 Q Anything else?

8 A It shows the barrier median at the crossing
9 and then the tracks towards the south.

10 Q Now, Mr. Vercruysse, you did not personally
11 take this photograph, correct?

12 A Correct.

13 Q You weren't physically present at the time
14 the photograph was taken, correct?

15 A Correct.

16 Q Are you familiar with the location of where
17 this photograph is displaying?

18 A Yes, I am.

19 Q What location is that?

20 A This is at the presignal Strawn Road just
21 to the west of the Union Pacific Railroad looking
22 south.

1 Q And how are you able to identify this
2 photograph as showing the Strawn Road crossing?

3 A I can see where the crosshatch is. I know
4 where the power lines show through this section, how
5 the handhole is, and then the low-mount traffic
6 signal post that is shown right here next to the cab
7 and where the driver of the truck is.

8 Q How are you able to recognize that this
9 particular crossing is the Strawn Road crossing?

10 A Those features themselves help to
11 determine, that is part of it, and then it's also
12 with what he noted within his e-mail, "Strawn Road
13 yesterday," and my own physical inspections of the
14 crossing.

15 Q Can you give us a background, approximately
16 how many times have you personally visited the Strawn
17 Road crossing?

18 A Since the complaints were first provided in
19 2013, I have documented eleven times that I was at
20 the crossing for inspections or reviews. And prior
21 to that, I was there for various inspections for the
22 condition of the crossing surface itself and other

1 things unrelated to those -- the complaint as
2 provided by Mr. Fleck.

3 Q In the course of your job duties at the
4 Illinois Commerce Commission, have you also seen
5 schematic drawings of the crossing?

6 A Yes, I have.

7 Q Based on your review of schematic drawings
8 of the crossing and your personal visits to the
9 crossing, are you able to state at today's
10 administrative hearing whether the photograph shown
11 on Page 2 of Staff's Exhibit 7 is a fair and accurate
12 depiction of part of the Strawn Road crossing?

13 A It is.

14 Q And can you describe for us, again, what
15 shown in this image allows you to identify it as
16 such.

17 A How the pavement marking aligns with the
18 traffic signals, the location of the handhole and the
19 median at this location, along with the signal track
20 of the Union Pacific Railroad, power lines in the
21 background, and by personal experience at the
22 crossing.

1 Q What else did Mr. Fleck bring your
2 attention to in his e-mail to you on June 26th, 2013,
3 at 4:28 p.m.?

4 A On the bottom of Page 2 it starts with the
5 issue with trucks turning right on the red signal.
6 That continues on to Page 3 where he shows other
7 trucks going through that segment.

8 Q Specifically if I can have you look at
9 Page 3 of Staff's Exhibit 7, can you explain what is
10 illustrated in the top photograph.

11 A In the top picture we see a truck with a
12 container to the left-hand side, and then we see to
13 the right another truck actually without a trailer
14 and assembly and they are -- and what Mr. Fleck is
15 identifying is that they're turning right on red at
16 the crossing, that they're going through the
17 presignal, which is highlighted by the black truck,
18 and then continuing to head southbound on Illinois
19 Route 53 at the intersection of 53 and Strawn Drive.

20 Q Similar to the last photograph, you
21 personally did not take this photograph, correct?

22 A That's correct.

1 Q You personally were not physically present
2 when this photograph was taken, correct?

3 A That's correct.

4 Q Are you able to identify this photograph as
5 depicting the Strawn Road crossing?

6 A Yes, I am.

7 Q Can you explain for us how you're able to
8 make that identification?

9 A Similar to the previous picture, the
10 location of the stop bar and the pavement marking and
11 how it's worn down, the traffic signal location, the
12 barrier median, the handhole location and then the
13 CenterPoint sign along the left-hand side of the
14 picture where the truck is heading towards Route 53.

15 Q Based on your previous personal visits to
16 the Strawn Road crossing as well as review of
17 schematics of that crossing, do you believe that this
18 photograph is a fair and accurate representation of
19 the crossing itself?

20 A I do.

21 Q Now, because you weren't physically there,
22 you did not see these vehicles in person violate the

1 traffic signals, correct?

2 A These specific vehicles, no.

3 Q Based on looking at this photograph, are
4 there any indicators that could cause you to believe
5 that these vehicles had violated a traffic signal?

6 A The signs that were called out for in the
7 design, which was "no turn on red" and "stop here on
8 red," as well as "do not stop on track" signs, were
9 missing from the crossing.

10 Q So the answer is, no, this photograph
11 doesn't point out anything to you that these vehicles
12 had violated signals?

13 A It does not. Without seeing the red
14 signal, no.

15 Q With respect to the photograph that appears
16 on the bottom of Page 3 of Staff's Exhibit 7, what
17 did Mr. Fleck bring to your attention as depicted in
18 this photograph?

19 A He's noting that the auto carrier truck
20 here had been sitting on the tracks for approximately
21 2 and a half minutes as this traffic signal is
22 cleared three times while the intersection of Route

1 53 was blocked with a funeral procession -- or
2 processions, as he notes.

3 Q Now, similar to the two previous
4 photographs, you were not physically present when it
5 was taken, correct?

6 A Correct.

7 Q And you didn't take it yourself, correct?

8 A Correct.

9 Q Are you nevertheless able to identify this
10 as depicting the Strawn Road crossing?

11 A I am.

12 Q And how are you able to make that
13 identification?

14 A With the CenterPoint sign, the location of
15 the barrier median through this section, the signal
16 track and my personal experience and observations at
17 the crossing.

18 Q Looking just at this picture, what do you
19 see happening?

20 A Looking at the picture, I see a postal
21 truck actually to the left-hand side that appears to
22 be closer to the intersection with Illinois Route 53,

1 and then I see the carrier on top of the tracks and
2 extended almost past towards the railroad warning
3 device and gate assembly itself.

4 Q Based on Mr. Fleck's e-mail, what did he
5 represent to you was occurring in this photograph?

6 A Mr. Fleck identified that the truck was
7 stopped on the crossing for 2 and a half minutes
8 before allowing -- before being allowed to clear and
9 that it was following the track.

10 Q What else did Mr. Fleck communicate to you
11 in this initial e-mail?

12 A On Page 4 Mr. Fleck identified via a
13 different map of the area the concern and the
14 conflict with the funeral processions versus the
15 truck traffic in relation to the intermodal facility.
16 He identified in green on Page 4 the funeral
17 procession routing towards Hoff Road and to the
18 Abraham Lincoln National Cemetery. That's Page 4.

19 Should I continue?

20 Q Yes.

21 What is shown on Page 5 of the
22 exhibit?

1 A On Page 5 Mr. Fleck identifies how many
2 gates were being broken or how many trouble calls
3 that they had at the crossing in this time period.

4 Q Okay. And can you describe to us what a
5 trouble call means?

6 A A trouble call -- the Railroad has a call
7 center and a dispatch that then would contact the
8 Signal Department. And it's recorded as noted on
9 Page 5 in the table that Mr. Fleck had provided in --
10 in the service calls or the trouble calls out to the
11 crossing as provided by their signal maintainer or
12 other representatives of the Union Pacific Railroad.

13 Q Can you describe for us what's depicted on
14 Page 6 of Staff's Exhibit No. 7.

15 A On Page 6 it provides the location of the
16 different Union Pacific at-grade rail crossings,
17 starting with the Mississippi Street in Elwood --
18 that's towards the right-hand side of the exhibit --
19 and continues southwest to show where Chicago Street
20 had been, then the Strawn Road crossing itself, and
21 then to the southernmost crossing, it shows the Hoff
22 Road crossing.

1 Q So the third crossing from the top of the
2 image is the Strawn Road crossing, correct?

3 A Correct.

4 Q Can you identify what's shown on Page 7 of
5 Staff's Exhibit 7.

6 A Page 7 is a similar aerial to our Group
7 Exhibit 1 that was provided by Mr. Fleck showing the
8 intersection of Illinois Route 53 and Strawn Road to
9 the west, Ira Morgan to the east on the right-hand
10 side of the page. And it shows the Union Pacific
11 tracks and the crossing closed at the time of the
12 aerial photograph taken.

13 Q Okay. So is it your belief that the
14 photograph on Page 7 is not contemporaneous to the
15 photographs shown on Pages 2 and 3 of the exhibit?

16 A Correct.

17 Q And specifically because there's
18 construction going on on Page 7?

19 A That's correct, and the crossing is closed
20 from what it appears.

21 Q Okay. What's shown on Page 8?

22 A On Page 8, this is a picture that

1 identifies the southbound right-turn lane on Illinois
2 Route 53 and it shows a vehicle or the truck exiting
3 the crossing eastbound in the distance. So it's a
4 view towards the southwest from the right-turn lane
5 off of Illinois Route 53 heading southbound.

6 Q Okay. And you didn't take this photograph,
7 correct?

8 A Correct.

9 Q You weren't present when it was taken?

10 A I was not.

11 Q You don't know when it was taken?

12 A I do not.

13 Q Are you able to identify this as being a
14 photograph of the Strawn Road crossing?

15 A Yes, I am.

16 Q How are you able to make that note -- that
17 identification?

18 A As with the other pictures, the location
19 and the CenterPoint sign, now the location of the
20 traffic signals, and the traffic signal cabinet shown
21 kind of in the center right of the page, location of
22 the presignals and the other items I had identified

1 previously.

2 Q Mr. Vercruysse, after receiving the
3 information from Joe Fleck that is contained in
4 Staff's Exhibit 7, what did you do?

5 A At that point I contacted the Illinois
6 Department of Transportation and I also contacted the
7 Village. At the same time internally I was working
8 with our Staff to determine what could be potential
9 resolutions to this issue.

10 Q And when you say "this issue," describe
11 what you mean, please.

12 A The main issue that was of greatest concern
13 was the funeral processions and the truck sitting on
14 the tracks for over 2 minutes as Mr. Fleck
15 identified.

16 The other issues with signs and stop
17 bars, that was the e-mail and the information that
18 was going and why I contacted the Illinois Department
19 of Transportation and the Village of Elwood.

20 Q Can you explain what your concerns were
21 with signage and pavement markings.

22 A We need to have an appropriate stop bar so

1 that the trucks will stop at the correct spot and to
2 understand that they're adhering to it. After that,
3 having the "no right turn on red" sign allows us to
4 control and better control how these trucks will go
5 through a crossing where we have presignals where we
6 have the active rail line.

7 MS. ANDERSON: Your Honor, at this time Staff
8 moves for the admission of its Exhibit 7 into
9 evidence.

10 JUDGE KIRKLAND-MONTAQUE: Okay. And I --
11 Mr. Scotti, as I said earlier, I noted your
12 objection, basically a hearsay objection, and I am
13 going to overrule that objection as it's fitting
14 within an exception of business record.

15 And also the witness testified in
16 instances where he is not able to determine whether
17 or not there was a violation. So I think the record
18 is clear in terms of what the images present and
19 whether or not they should be considered as
20 violations of certain rules.

21 So --

22 MR. SCOTTI: So if I understand your ruling, is

1 you're admitting it for the purposes of what
2 Mr. Vercruysse used it for, but not for the truth of
3 the matter asserted as an exception to the hearsay
4 rule?

5 JUDGE KIRKLAND-MONTAQUE: Yes.

6 MR. SCOTTI: Thank you.

7 MR. STREICHER: May we be heard on that, Judge?

8 JUDGE KIRKLAND-MONTAQUE: No -- wait. Let me
9 make clear what my ruling is because I don't think
10 you stated it properly.

11 I am admitting it as an exception to
12 the hear- -- to hearsay as a business record. And
13 I'm just clarifying that what Mr. Vercruysse
14 testified to in terms of what the pictures present
15 are basically -- I mean, he admitted that in one
16 instance he could not tell whether or not there was a
17 violation because he couldn't determine whether the
18 light was red or not.

19 So I don't think that the testimony or
20 the evidence is in any way detrimental because it --
21 he explained what it is that he viewed in the
22 exhibit.

1 MR. SCOTTI: Thank you.

2 JUDGE KIRKLAND-MONTAQUE: Any -- did you want
3 to say anything additional?

4 MR. STREICHER: I just think once it's admitted
5 as a business record, it's admitted and any argument
6 goes to weight --

7 JUDGE KIRKLAND-MONTAQUE: Right, that's what
8 I'm trying to --

9 MR. STREICHER: -- not an interpretation of
10 what is in the document or not. It's in evidence.

11 JUDGE KIRKLAND-MONTAQUE: Right. And that was
12 my point in terms of his -- what he pointed out in
13 terms of what he saw. It will go to the weight of
14 the evidence.

15 Thank you.

16 So any objections, other than
17 Mr. Scotti, as to the admission of Staff's -- is
18 that -- did you move to admit this exhibit,
19 Ms. Anderson?

20 MS. ANDERSON: Yes, your Honor, I did.

21 JUDGE KIRKLAND-MONTAQUE: Any other objections?

22 MR. STREICHER: No objection.

1 JUDGE KIRKLAND-MONTAQUE: Staff's Exhibit 7 is
2 admitted into evidence.

3 (Whereupon, Staff's Exhibit
4 No. 7 was admitted into
5 evidence.)

6 BY MS. ANDERSON:

7 Q Mr. Vercruysse, can I have you take a look
8 at Staff's Exhibit 2, please.

9 A Yes.

10 Q Do you recognize Staff's Exhibit No. 2?

11 A Yes, I do.

12 Q What do you recognize Staff's Exhibit 2 to
13 be?

14 A This is a meeting agenda for a meeting on
15 October 2nd, 2013.

16 Q And what was that meeting concerning?

17 A The Strawn Road crossing and rail safety
18 and other safety concerns in the area of the Strawn
19 Road crossing with the Village of Elwood, the Union
20 Pacific Railroad, the Illinois Department of
21 Transportation, and Staff of the Illinois Commerce
22 Commission.

1 Q Mr. Vercruysse, can I have you flip to
2 Page 3 of Staff's Exhibit No. 3 (sic), please.

3 A Yes.

4 Q Do you recognize what begins on Page 3 of
5 Staff's Exhibit No. 3?

6 A Yes, I do.

7 Q What is that?

8 A These are the meeting minutes from that
9 meeting held on October 2nd, 2013.

10 Q And apart from the meeting agenda and the
11 minutes that begin on Page 3, is there any other
12 content from another source in Staff's Exhibit 3?

13 A The meeting minutes were sent out to the
14 parties for review and comment. The highlight red on
15 these different pages represent different comments
16 from the different parties; otherwise the content was
17 produced and provided to -- produced by the Illinois
18 Commerce Commission Staff -- by myself in conjunction
19 with other Staff members -- and then sent to the
20 parties for review.

21 MR. SHUMATE: Your Honor, a point of
22 clarification, is this Staff Exhibit Group 2 or

1 Group 3?

2 BY MS. ANDERSON:

3 Q Mr. Vercruysse, could you go back to the
4 beginning of this exhibit.

5 A Yes.

6 Q I think I said the wrong number when I
7 asked you that question.

8 Mr. Vercruysse, up to this point in
9 the record, all of my questions that I've asked you
10 referencing Staff Exhibit 3, were you actually
11 testifying as to Staff's Exhibit 2?

12 A Yes, I was.

13 JUDGE KIRKLAND-MONTAQUE: Thank you for the
14 clarification.

15 BY MS. ANDERSON:

16 Q So, Mr. Vercruysse, you were just saying
17 that the portion beginning on Page 3 of Staff's
18 Exhibit 2 contains revisions to the meeting minutes
19 that are highlighted in red?

20 A Yes. That's correct.

21 Q Okay. So the version contained in this
22 exhibit are the revised minutes, not the original

1 minutes, correct?

2 A That's correct.

3 Q Just so we don't get ahead of ourselves, if
4 you could move back to the first page of this
5 exhibit, Page No. 1.

6 A Sorry.

7 Q What caused the rail safety coordination
8 meeting to be held on October 2nd, 2013?

9 A This was in response to the complaints that
10 we had received from the UP's signal manager and it
11 was also to address other concerns that had been
12 brought up by the Village of Elwood, including the
13 traffic backed up from the industrial park lead
14 1700 feet away.

15 Q Who called for this meeting to be held?

16 A The meeting -- the Village of Elwood was
17 primary in hoping to hold a meeting, but at the same
18 time Staff was so that we could start to resolve or
19 gain an understanding of all of the issues at the
20 crossing.

21 Q What entities participated in this meeting?

22 A The Village of Elwood; Union Pacific

1 Railroad; IDOT with their consultant, Parsons
2 Brinckerhoff; the Illinois Commerce Commission; I
3 believe various consultants from the Village of
4 Elwood.

5 Q Were you physically present at this
6 meeting?

7 A Yes, I was.

8 Q What issues were addressed at the building?

9 A The meeting addressed the concerns with the
10 funeral processions and how the trucks had been
11 blocked at the crossing. It addressed other concerns
12 with highway and highway -- or highway-to-highway
13 safety concerns, whether it was trucks with funeral
14 procession -- it identified concerns with the number
15 of gates being broken and the compliance rate with
16 the different devices at the crossing; and it also
17 detailed the concerns with upcoming proposals in the
18 area.

19 Q Mr. Vercruysse, if I can have you look at
20 the revised meeting minutes that begin on Page 3 of
21 the exhibit.

22 A Yes.

1 Q Do the meeting minutes -- and if I could
2 specifically direct your attention to the first
3 paragraph of the minutes shown on Page 3 -- do these
4 minutes reflect any representation that was made at
5 that meeting as to the volume of vehicles that use
6 the Strawn Road crossing?

7 A Yes, it does.

8 Q And what representation is reflected in the
9 first paragraph of the minutes?

10 A In the first paragraph it identifies the
11 design year 2020 traffic that was part of the initial
12 proceedings for the case and, as was discussed with
13 Mr. Powers, where it noted 7,000 vehicles per day
14 with 26 percent trucks. And that was the design year
15 2020 projection.

16 Q In Paragraph 2 of the meeting minutes, is
17 there a representation made as to traffic counts for
18 the crossing as of 2013?

19 A Yes, there is.

20 Q What is that representation?

21 A It notes that the Village of Elwood states
22 that there is an approximate average daily traffic of

1 12,000 vehicles per day with 8,000 trucks or
2 67 percent of the traffic being trucks.

3 Q Now, the volume projected for the year 2020
4 contained in Paragraph 1 of the revised minutes,
5 that's consistent with the projection stated on the
6 record of the original hearing in this matter in
7 March of 2002, correct?

8 A That's correct.

9 Q With respect to the 2013 count data
10 contained in Paragraph 2 of these minutes, what was
11 the source of that information?

12 A The statements by the Village of Elwood
13 personnel.

14 Q And you recorded that in the minutes?

15 A Yes, I did.

16 Q If I can have you turn your attention to
17 the third paragraph of Staff's Exhibit 2.

18 Does that paragraph make any
19 representations as to the volume of trains that use
20 the Strawn Road crossing as of 2013?

21 A Yes, it does.

22 Q What is that representation?

1 A It notes that ten Amtrak trains per day
2 utilize the crossing with approximately four freight
3 trains per day.

4 Q And who made that representation at the
5 meeting?

6 A This was with the UP -- the Union Pacific
7 personnel at the meeting.

8 Q And do you remember who that was?

9 A I don't remember who specifically stated
10 it, but I do know who was present from the Union
11 Pacific Railroad.

12 Q Who was present from the Union Pacific
13 Railroad?

14 A Joe Fleck, the signal manager, was present
15 at the time, John Venice, Rich Ellison and Dave
16 Peterson, to my recollection.

17 Q Okay. With respect to the frequency of
18 passenger trains, how many were represented in the
19 meeting minutes?

20 A The passenger train, ten.

21 Q And the freight trains?

22 A Four.

1 Q And with respect to the passenger trains,
2 at the time of these meeting minutes, what was the
3 speed of those trains?

4 A 79 miles per hour.

5 Q Do you know whether, as of the date of this
6 administrative hearing, that is still the speed of
7 the passenger trains that use this crossing?

8 A That is my understanding.

9 Q Are you aware of any potential change in
10 the speed of passenger trains that would use this
11 crossing?

12 A Yes, I am.

13 Q What change, if any, would there be?

14 A The Illinois Department of Transportation,
15 as part of their Higher-Speed Rail Project from
16 Chicago to St. Louis, is proposing to run
17 110-mile-an-hour train -- passenger trains through
18 the crossing. And it's my understanding that that is
19 next year, 2015.

20 Q And how did you find out about the
21 potential change under the High-Speed Rail Program
22 and when that would go into effect?

1 A As part of the IDOT's High-Speed Rail or
2 Higher-Speed Rail Program, they are in contact with
3 us for approvals for their designs and -- whether it
4 be roadway or a warning device -- and they provide
5 different -- different maps identifying the different
6 segments along the corridor -- and this segment was
7 identified as one of the 110-mile-an-hour segments --
8 as well as in different meetings with them and other
9 coordination that takes place on a monthly basis.

10 Q If I can have you refer to the sixth
11 paragraph of the revised minutes.

12 Do you see that paragraph?

13 A Yes, I do.

14 Q Does that paragraph make any representation
15 as to funerals impacting the crossing?

16 A It starts off identifying the Hoff Road
17 intersection at the bottom of Page 3.

18 Q Okay. And if you continue on to the
19 following page of the exhibit, does it make any
20 statements as to funerals?

21 A Yes, it does. It identifies the average
22 number of funerals per day with the peak use and the

1 time frame at which those occur.

2 Q Can you describe for us what was discussed
3 at the meeting in terms of funerals and how those
4 funerals impact the Strawn Road crossing?

5 A At the meeting, it was identified that
6 there's an average of 25 funerals per day with a peak
7 use on Mondays and Fridays and that up to 37 per day
8 was the maximum amount.

9 Other discussions relative to the
10 funeral processions are -- were brought forward and
11 identified by Mr. Fleck, who had stated that he had
12 visited with the Abraham National Cemetery to get an
13 understanding of the types and numbers of funeral
14 processions that came through the intersection of 53
15 and Strawn Road and headed to the cemetery itself.

16 Q Okay. And when you say "the cemetery," can
17 you clarify for us where the burials or interment of
18 remains is taking place?

19 A At the Abraham Lincoln National Cemetery to
20 the west of 53 near Hoff Road and in that area.

21 Q So this -- these funerals would be
22 occurring at the cemetery that you previously

1 highlighted as shown on that funeral route in Staff's
2 Exhibit 7?

3 A That's correct.

4 Q Was anything else discussed at this meeting
5 in relation to funerals?

6 A In relation to funerals, the Village had
7 identified their concerns that the mourners would
8 become disjointed in the procession and may get lost
9 because of not being familiar with the area. It was
10 also discussed of potential trucks or other vehicles
11 cutting off the funeral processions, not
12 understanding where they needed to go also.

13 So there was the discussion as far as
14 the highway-rail safety concern and then also the
15 highway safety concern itself.

16 Q And when you say "the highway-rail safety
17 concern," what concern are you talking about?

18 A This is with the conflict where a truck
19 trying to exit off the crossing would be in conflict
20 with a funeral procession that's heading south on 53
21 during a red light.

22 Q Mr. Vercruysse, can I direct your attention

1 to Paragraph 9 of the meeting minutes right before
2 the heading of the next section, Highway and Rail
3 Safety Concerns.

4 Does that paragraph make any
5 representation as to future plans for the Strawn
6 crossing as part of the High-Speed Rail Program?

7 A Yes, it does.

8 Q What are those future plans noted in the
9 minutes?

10 A In addition to the 110-mile-per-hour
11 service, it identifies that a second track is
12 intended to be installed at the Strawn Road crossing.

13 Q What was discussed at this coordination
14 meeting concerning the planned future for the
15 crossing?

16 A It was discussed that the Illinois
17 Department of Transportation would modify this to a
18 complex crossing and that they would review different
19 options and alternatives given the issues that were
20 provided.

21 Q Who made representations at the safety
22 coordination meeting concerning the speed of future

1 Amtrak trains as part of the High-Speed Rail Program?

2 A The Illinois Department of Transportation
3 along with their consultant from Parsons
4 Brinckerhoff.

5 Q At the conclusion of the rail safety
6 coordination meeting, what happened?

7 A At the conclusion of the rail safety
8 coordination meeting, there were different action
9 items that were brought forward to try and monitor
10 the crossing, provide enforcement, look to different
11 engineering solutions. And personally for our side
12 as Staff, we went back to try and determine what the
13 conditions were at the crossing now and what we felt
14 was the best to happen.

15 Q Okay. And the action items that you're
16 referring to, are those the items that appear on
17 Page 6 of the exhibit?

18 A Yes, they are.

19 Q If I can draw your attention to Page 7 of
20 the exhibit, there's a notation there about the red
21 text highlights being made pursuant to an IDOT
22 letter.

1 Can you explain that process?

2 A As stated before, we had sent these meeting
3 minutes out to all the parties for their review and
4 concurrence and IDOT had provided a letter back to us
5 identifying comments that they had had. And the red
6 comments note that we addressed it with one
7 exception.

8 Q And for clarification, when you say "the
9 parties," can you identify again to whom these
10 minutes were sent for review?

11 A The Village of Elwood, Union Pacific
12 Railroad, IDOT and Parsons Brinckerhoff, who was
13 consultant to IDOT -- or who is consultant to IDOT.

14 MS. ANDERSON: Your Honor, at this time I would
15 move for the admission of Staff Exhibit 2.

16 MR. SHUMATE: No objection.

17 MR. STREICHER: No objection.

18 MR. SCOTTI: No objection.

19 JUDGE KIRKLAND-MONTAQUE: Staff Exhibit 2 is
20 admitted.

21

22

1 (Whereupon, Staff's Exhibit
2 No. 2 was admitted into
3 evidence.)

4 BY MS. ANDERSON:

5 Q Mr. Vercruysse, can I have you take a look
6 at Staff Exhibit 5, please.

7 A Yes.

8 Q Do you recognize Staff Exhibit 5?

9 A I do.

10 Q What is Staff Exhibit 5?

11 A It is a letter on October 11th to the
12 Village of Elwood, Union Pacific Railroad and IDOT
13 from ICC Staff and our Rail Safety Program
14 administrator.

15 Q Who sent the letter?

16 A I sent the letter.

17 Q And who wrote the letter?

18 A I drafted the initial letter and then
19 sought comments from our Staff and we compiled and
20 made a final draft that I sent out.

21 Q Is the version of this letter that's shown
22 in Staff Exhibit 5 the final version of the letter?

1 A Yes, it is.

2 Q On what date was this letter sent?

3 A October 11th, 2013.

4 Q Who did you send it to?

5 A It was William Offerman, president of the
6 Village of Elwood; John Venice, manager of Industry
7 and Public Projects for the Union Pacific Railroad;
8 and Steve Travia, bureau chief of the Bureau of
9 Traffic at the Illinois Department of Transportation.

10 Q Why was this letter sent?

11 A This letter was sent in response to the
12 meeting held on October 2nd. It was to transmit the
13 meeting minutes and also provide our position on the
14 crossing and what we had assessed.

15 Q What position did Staff take as to the
16 Walter Strawn crossing in this letter?

17 A At this point with the concerns, we had
18 recommended that the UP institute a temporary speed
19 restriction at the crossing, and the temporary
20 closure of the Strawn Road crossing must also be
21 reviewed by the Village. And we asked for the
22 position of the parties, the Village, Illinois

1 Department of Transportation and UP, so we had their
2 positions, recommendations and any other points with
3 the meeting minutes.

4 Q Did you receive feedback from the parties
5 in response to this letter?

6 A Yes, we did.

7 Q Describe generally the nature of that
8 feedback.

9 A The feedback recognized the concern. There
10 was points identifying that the Village would
11 continue to work with all the parties to try and
12 institute a safe condition. The UP identified
13 potential different measures relative to signs and
14 active warning devices and the potential for
15 modifying the law relative to funeral processions,
16 and then IDOT provided the comments as highlighted in
17 red for the meeting minutes and they also identified
18 certain conditions and possibilities of monitoring
19 the presignal location and trying to have some sort
20 of law enforcement present.

21 Q In response to the October 11th letter
22 shown in Staff's Exhibit 5, was Staff able to achieve

1 a sufficient response to the safety concerns
2 discussed at the rail safety coordination meeting on
3 October 2nd?

4 A No.

5 MS. ANDERSON: Your Honor, at this time, Staff
6 would move for the admission of Staff Exhibit 5.

7 MR. SHUMATE: No objection.

8 MR. STREICHER: No objection.

9 MR. PARRISH: No objection.

10 MR. SCOTTI: No objection.

11 JUDGE KIRKLAND-MONTAQUE: Okay. Staff
12 Exhibit 5 is admitted.

13 (Whereupon, Staff's Exhibit
14 No. 5 was admitted into
15 evidence.)

16 BY MS. ANDERSON:

17 Q Mr. Vercruysse, can I have you turn your
18 attention, please, to Staff's Exhibit No. 4.

19 A Yes.

20 Q Do you recognize this exhibit?

21 A I do.

22 Q What do you recognize this exhibit to be?

1 A This is a news article from the Chicago
2 Tribune.

3 Q What does this article concern?

4 A It concerns the Abraham Lincoln National
5 Cemetery.

6 Q What is the date of this article that's
7 shown on Staff's Exhibit 4?

8 A It's May 8th, 2011.

9 Q Now, if I can direct your attention to the
10 lower right corner of Page 1 of Staff's Exhibit 4, do
11 you see the date January 23rd, 2014?

12 A Yes, I do.

13 Q Is that the date that this article was
14 retrieved electronically for the purposes of the
15 motion to reopen?

16 A Yes, it was.

17 Q Prior to the date of January 23rd, 2014,
18 had you reviewed this article?

19 A Yes, I had.

20 Q Can you explain how you became familiar
21 with this article.

22 A After the meeting that was held on

1 October 2nd and trying to understand the different
2 elements at the crossing, whether it was traffic at
3 the area or the demand and how many funeral
4 processions at the Abraham Lincoln National Cemetery,
5 we started to do different research and this was
6 based upon a search of different news items relative
7 to the Abraham Lincoln National Cemetery.

8 Q And why did you make a record of this
9 article that you found?

10 A To see where we stood with the number of
11 funeral processions and if this was going to be a
12 long-term concern.

13 Q Did this article make any representation as
14 to the number of funerals at the cemetery?

15 A Yes, it did.

16 Q Where is that representation made?

17 A It is on Page 2 in the second full
18 paragraph.

19 Q And what is the representation made in this
20 article?

21 A It notes here and highlighted in the
22 exhibit on Page 2, the cemetery has 5 to 30 funerals

1 a day.

2 Q Now, this article was published in -- by
3 the Chicago Tribune, correct?

4 A Yes.

5 Q You personally did not contact the Cemetery
6 to verify what was represented in this article,
7 correct?

8 A Not relative to this article, no.

9 Q Have you made any other efforts to contact
10 the Cemetery to find out the number of funerals or
11 funeral processions?

12 A I visited the cemetery and spoke with one
13 of the volunteers and was provided similar numbers.
14 And then I also had filed a Freedom of Information
15 request from the Department of Veteran Affairs, I
16 believe.

17 Q Did you ever receive a response to your
18 Freedom of Information Act request?

19 A I did not.

20 Q The representation as to the number of
21 funerals contained in the article in Staff's
22 Exhibit 4, is that similar to or not similar to the

1 figure that was provided at the rail safety
2 coordination meeting?

3 A Similar.

4 Q Did you rely on the article contained in
5 Staff's Exhibit 4 in relation to your motion to
6 reopen?

7 A Yes.

8 Q In what way did you consider the
9 information in Staff's Exhibit 4?

10 A As a confirmation of the meeting and the
11 other information we had received from the parties.

12 MS. ANDERSON: Your Honor, at this time, Staff
13 would move for the admission of Exhibit 4.

14 MR. SHUMATE: No objection from the Railroad.

15 MR. SCOTTI: No objection from CenterPoint.

16 MR. PARRISH: No objection.

17 MR. STREICHER: No objection, your Honor.

18 JUDGE KIRKLAND-MONTAQUE: Staff Exhibit 4 is
19 admitted.

20 (Whereupon, Staff's Exhibit
21 No. 4 was admitted into
22 evidence.)

1 BY MS. ANDERSON:

2 Q Mr. Vercruysse, could I please turn your
3 attention to Staff's Exhibit No. 6.

4 A Yes.

5 Q Do you recognize Staff's Exhibit No. 6?

6 A Yes, I do.

7 Q What is Staff's Exhibit No. 6?

8 A This is the "Purpose and Need" section from
9 the Environmental Impact Statement completed by the
10 Illinois Department of Transportation relative to
11 their higher-speed passenger service set for Chicago
12 to St. Louis.

13 Q Now, the document contained in Staff's
14 Exhibit 6, was this part of an Environmental Impact
15 Statement?

16 A Yes, it was.

17 Q Specifically what did this portion of the
18 overall statement focus on?

19 A The purpose and need for the project.

20 Q Did this -- strike that.

21 Mr. Vercruysse, how did you become
22 aware of the "Purpose and Need" portion of IDOT's

1 Environmental Impact Statement for the High-Speed
2 Rail Project?

3 A I was aware of it based upon the Illinois
4 Department of Transportation's plans and the
5 coordination meetings, as I noted, between us and
6 IDOT. And from this, knowing that the Environmental
7 Impact Statement was there, I was able to retrieve
8 this section off of the Internet and off of their Web
9 site.

10 Q Is this related to a particular phase of
11 the High-Speed Rail Project?

12 A This they call out as the Tier 1 Phase.

13 Q In your review of the "Purpose and Need"
14 section of the Environmental Impact Statement
15 contained in Staff's Exhibit 6, did you find whether
16 that document made any representation as to the
17 projected speed of high-speed trains?

18 A Yes.

19 Q Mr. Vercruysse, can I have you please take
20 a look at Page 5 of the exhibit.

21 A Yes.

22 Q On Page 5 of this exhibit, is there any

1 representation made as to the train speed?

2 A In Section 2.1.3 towards the end of the
3 page, it identifies the existing and future
4 conditions. And this section notes that five
5 passenger roundtrips will -- per day will operate at
6 110 miles per hour between Joliet and Alton.

7 Q Are the conditions as expressed here on
8 Page 5 of Staff's Exhibit No. 6 consistent or
9 inconsistent with what was represented by the parties
10 at the rail safety coordination meeting?

11 A It is consistent.

12 Q Mr. Vercruysse, if I can have you turn to
13 Page 9 of the exhibit, does this page make any
14 representation as to the volume of freight trains
15 using this corridor?

16 A It does.

17 Q What is that representation?

18 A It notes in the third full paragraph that,
19 according to the UP, the new intermodal terminal
20 initially will double the number of freight trains on
21 the Chicago to St. Louis corridor from 6 to 12. And
22 the number is projected to increase to 22 by 2017.

1 Q When this document references the new
2 intermodal terminal, do you know what terminal is
3 being referred to?

4 A That is the Union Pacific Joliet intermodal
5 yard. I believe it is also noted as their Global IV.

6 Q Does this statement have any bearing on the
7 conditions at Strawn Road?

8 A Yes, it does.

9 Q What is that relationship?

10 A The increased train traffic, freight
11 traffic and the increased risk that could be
12 associated at the crossing.

13 Q Mr. Vercruysse, can I have you please turn
14 your attention to Page 13 of the exhibit.

15 A Yes.

16 Q Does this page of the exhibit make any
17 representation as to changing future conditions at
18 the crossing due to the implementation of the
19 High-Speed Rail Program?

20 A It, again, identifies the greater number of
21 truck traffic -- I'm sorry -- excuse me -- scratch
22 that. It's -- it makes representation that the

1 single tracking between Joliet and St. Louis cannot
2 accommodate existing freight and passenger train
3 traffic in the -- one, two -- third bullet point.

4 And in the fourth bullet point below
5 that, it identifies, again, that the number of
6 freight trains in the area will double from 6 to 12
7 with the projections of 22 by Year 2017.

8 Q Apart from this document, are you familiar
9 with the addition of a second track proposed for the
10 Strawn Road crossing?

11 A Yes, I am.

12 Q How did you become familiar with that?

13 A During the process of coordination for the
14 High-Speed Rail Program, we were advised by IDOT and
15 their consultant, Parsons Brinckerhoff, that they had
16 received funding in this segment to allow for a
17 second track south of Joliet and then continuing
18 south through the Strawn Road crossing and continuing
19 south from there.

20 Q As of the date of today's administrative
21 hearing, do you have any specific knowledge of
22 projection as to when a second track could be added

1 to this location?

2 A I have not seen anything in writing. It's
3 just from the meetings that my understanding is 2016.

4 Q And when you say "the meetings," what
5 meetings are you referring to?

6 A These would be the monthly coordination
7 meetings that IDOT hosts with Parsons Brinckerhoff
8 relative to the High-Speed Rail Program from Chicago
9 to St. Louis.

10 Q What does the addition of an additional
11 track at this location mean for the safety conditions
12 at the Strawn Road crossing?

13 A It, again, provides for increased risk and
14 now we have the possibility of dual train moves.

15 Q Are you familiar with whether the
16 installation of an additional track at this location
17 would involve the installation of four quad gates
18 with loop detectors?

19 A That is the -- along the entire corridor,
20 every crossing is to receive four quadrant gates with
21 loop detection.

22 Q For our benefit, could you explain what

1 that type of gate and detection system is?

2 A The four quadrant gate system provides for
3 entrance and exit gates. That's so that a vehicle
4 cannot go around the gates. The idea is to have a
5 sealed corridor so that motorists or other implements
6 cannot get through the crossing.

7 The inductance loops are in the
8 pavement near the crossing and they control the exit
9 gates. If we have a vehicle that's stuck in the
10 crossing, those loops provide a command that the exit
11 gates will raise up. When those exit gates raise up,
12 the intent is to have the motorist move off of the
13 crossing and provide that option.

14 Q Would the installation of that type of gate
15 system solve the safety concerns that you have noted
16 are currently occurring at the Strawn Road crossing?

17 A No, they would not.

18 Q Why not?

19 A It does not have any relation to the
20 funeral procession/truck conflict where we have the
21 trucks trying to exit off the tracks during a track
22 clear green and funeral processions progressing south

1 during a red light on 53.

2 Q Mr. Vercruysse, after the follow-up to the
3 rail safety coordination meeting and your further
4 research did not generate an immediate solution to
5 what was going on at Strawn Road, what did Staff do
6 next?

7 A We, again, provided another letter to the
8 parties identifying what we saw as the greatest
9 concern at the crossing and that we did not feel that
10 there was any engineering solution currently
11 available other than potentially giving a temporary
12 closure to the crossing and awaiting a longer-term
13 solution, including the possibility of a bridge. And
14 we also reiterated, again, our desire if the Union
15 Pacific would provide a voluntary speed restriction.

16 Q At any point in these communications, did
17 Staff make a distinction between interim and
18 long-term solutions for this crossing?

19 A The distinction with the interim being
20 either the closure or speed restriction with ultimate
21 being something where the entire roadway network is
22 reviewed and the possibility of a bridge being

1 constructed is studied.

2 Q Was law enforcement presence considered a
3 potential interim solution to deal with traffic
4 issues?

5 A It was discussed initially at that point,
6 yes.

7 Q Were -- strike that.

8 At that time -- and when I say "that
9 time," I mean in October of 2013 -- was any interim
10 measure adopted by the parties as the result of this
11 correspondence?

12 A No.

13 Q What did Staff do next?

14 A We filed a motion to reopen.

15 Q And that's why we're here today, correct?

16 A Correct.

17 Q Mr. Vercruysse, can you give us a general
18 description of the current conditions at the crossing
19 and what you find problematic about them.

20 A The current conditions at the crossing, the
21 signs have been put back in place with the "do not
22 stop on tracks" and "no right turn on red." The

1 pavement marking is still in a similar situation.
2 It's our understanding the Village of Elwood
3 potentially has a paving -- or a pavement marking
4 contractor to refresh that marking, which they did
5 last year, but it was eroded by all of the truck
6 traffic in the area.

7 Also the Will County Sheriff's
8 Department during the course of all of the
9 proceedings and various efforts of discovery had
10 offered to provide -- to provide monitoring and
11 provide their deputies at the crossing to assist with
12 the funeral processions heading south at the
13 crossing.

14 Q Do you consider there still to be a safety
15 issue at the crossing?

16 A I do.

17 Q And specifically what is that issue or
18 issues?

19 A The issue is that we still have a design
20 and a condition where the funeral processions could
21 conflict with trucks exiting the crossing. The three
22 different times that I've been present to see the

1 deputies and the way that they're working the
2 crossing -- we're very appreciative that they're
3 there and it does provide us some level of comfort,
4 however, it is still -- there is still a possibility
5 of human error and we don't think that that's the
6 final or ultimate solution.

7 At different times I've seen different
8 procedures: One where a deputy would actually block
9 the vehicles near the presignal and near the gate. A
10 second time I saw them using the emergency vehicle
11 emitter, which allows for a green light along
12 southbound Illinois 53 for the funeral processions.
13 And then a third time I witnessed where the deputy's
14 car was positioned in the southbound lanes on
15 Illinois Route 53. That relies on the truck drivers
16 to understand what's going on at the location and it
17 relies a lot on human decisions where we have a lot
18 of different possibilities for concern.

19 We may have somebody on a cell phone.
20 We may have somebody not quite paying attention or
21 following right in behind the vehicle in front of
22 them and not realizing that they're in danger.

1 Q Have you personally observed vehicles
2 violate the signals and warning devices in place at
3 the Strawn Road crossing?

4 A Yes, I have.

5 Q Can you describe when you made those
6 observations and what those observations were.

7 A Subsequent to the complaints that were
8 provided by the signal manager and then also by the
9 Village of Elwood, during the course of the various
10 field visits, the seven or eight after that point, I
11 witnessed anything from vehicles going through two
12 red lights, going through the presignal and then
13 heading towards the Illinois Route 53 light where
14 they were.

15 I've witnessed where they disobey the
16 start of the flashing light signals and gates. And
17 then I watched and saw the concern with the funeral
18 processions in conflict with trucks trying to exit
19 the tracks.

20 Q Did you ever have occasion to videotape
21 conditions at the crossing for the purpose of this
22 hearing?

1 A Yes, I did.

2 Q When did you make that video-recording?

3 A On June 19th, 2014.

4 Q Do you recall at what time of day you made

5 that video?

6 A It was approximately 11:30 in the morning.

7 Q And do you have a copy of that video

8 available at today's hearing to share with us?

9 A I do.

10 Q Mr. Vercruysse, if I could have you close

11 this exhibit and open up Staff's video exhibit.

12 Okay. Could you pause that for a

13 moment, please.

14 A Yes.

15 MR. SCHMIDT: Should we turn off the lights?

16 JUDGE KIRKLAND-MONTAQUE: I'm sorry. The

17 lights? They're out in the hall -- do you know where

18 they are?

19 MR. STREICHER: Yeah.

20 JUDGE KIRKLAND-MONTAQUE: Far out near the

21 reception area. Oh, he got it. That's better.

22 BY MS. ANDERSON:

1 Q Mr. Vercruysse, is this the exhibit that we
2 preidentified in our notice to the parties as Staff's
3 Exhibit No. 11?

4 A Yes.

5 Q Okay. Now, if I could have you just play
6 the video once through and watch it and then I'm
7 going to follow up with some questions.

8 Okay?

9 A Okay.

10 (Whereupon, there was a video
11 played.)

12 BY MS. ANDERSON:

13 Q Okay, Mr. Vercruysse, if you could -- yeah,
14 if the video is paused, that's good.

15 So the video we've identified as Staff
16 Exhibit 7, do you recognize this as being the video
17 that you took on June 19th, 2014?

18 A Yes.

19 Q And at the time that you took that video,
20 was your video camera device in proper working order?

21 A Yes, it was.

22 Q And does the video that you have just

1 witnessed fairly and accurately depict the conditions
2 that you observed at the Strawn Road crossing on
3 June 19th, 2014?

4 A Yes.

5 Q And, in fact, in part of this video it
6 sounds like we heard your voice for a little bit?

7 A That's correct.

8 Q Okay. So you took it?

9 A I did.

10 Q Okay. Mr. Vercruysse, if I can -- perhaps
11 once the lights have been dimmed again, if I could
12 have you run through the video again and pause it at
13 the times you feel necessary to highlight what you
14 consider to be safety problems at this crossing.

15 A Okay.

16 (Whereupon, there was a video
17 played.)

18 THE WITNESS: At this point you see the green
19 signals in the far side that shows the track green
20 segment and we have the red signals on the presignal.
21 The northbound Amtrak has now come through the
22 crossing and we're in what's called the hold phase.

1 We see the -- let me pause it here. Forgive me.

2 We'll stop it at that point.

3 So, again, as I stated, we're in the
4 hold phase with cars continuing to progress
5 southbound. At this point we see a hearse traveling
6 southbound along 53. At this point, given that the
7 lights are red here and at the far side, it appears
8 that they're continuing on a green light at this
9 moment.

10 As the gates start to rise, the
11 preemption sequence of the traffic signal is
12 released. And we'll go to our exit phase, which is
13 right here with Strawn Road.

14 So at this point, we still have a
15 funeral procession that's continuing through now on a
16 red light and we have a conflicting green light for
17 the motorists who are properly trying to exit Strawn
18 Road. We also have a truck turning right here
19 limiting views of any of the funeral processions
20 behind him.

21 So, again, we have them continuing
22 through this point. The one vehicle in the left-turn

1 lane off Strawn sees it. This vehicle I don't
2 believe saw it. They're going at a higher rate of
3 speed and then they hit the brakes as the last of the
4 funeral procession leaves. So this appeared to be a
5 shorter funeral procession.

6 As we continue the video, from that
7 conflict point -- we see that there's still a green
8 for both indications, for the presignal -- the
9 presignal is noted right here to still have a green
10 as do the far side signals.

11 At this point, the left-turn signal --
12 it's a little bit difficult to see, but they do not
13 have the left-turn arrow any longer. It's a "left on
14 arrow only" that's gone to red.

15 The far side signal we'll follow with
16 its overlapping and do similar. At that point on the
17 far side you see it's now gone to yellow and red.

18 This vehicle here is going through a
19 red light here and then they see a red light -- or
20 they should see a red light further through that
21 segment. This vehicle is actually continuing with
22 the two green lights at the presignal and far side.

1 The presignal has gone to yellow, but here this was a
2 "left on arrow only" with a red light and he's just
3 followed in before -- behind the car in front -- or
4 the vehicle in front of him. And from this position,
5 he's within 6 feet from the rail, which is in follow
6 of the tracks.

7 Now here we're at red on both signals.
8 The green light is provided on Illinois Route 53
9 north and southbound and we see more of the trucks
10 progressing on the northbound left-turn movement here
11 and we'll continue to see that. Again, the truck is
12 still in follow of the track at this point.

13 BY MS. ANDERSON:

14 Q Mr. Vercruysse, can I have you, if the
15 camera angle permits, try to highlight where the
16 track is.

17 A The track is right in front of the first
18 car carrier that we see in this location. It's the
19 concrete panels and then these are metal bands
20 along -- or around it and it's just located after the
21 warning device, the flasher and railroad gate.

22 Q Where is the stop bar?

1 A The stop bar is closer to where I'm
2 actually taking the film -- or actually videotaping
3 the location.

4 Q Okay. Please continue.

5 A I'm talking to one of the drivers who's at
6 the stop bar asking for directions.

7 Now, here's the safety -- or one of
8 the other safety concerns: Having seen the conflict
9 with the funeral processions previously -- now we
10 have a green light -- the worst-case scenario is now
11 a larger funeral procession coming through here and
12 then a train on the approach, as we saw previously.

13 And, again, they're asking for
14 directions in the area as far as Interstate 55 versus
15 their current location.

16 Q Mr. Vercruysse, just to try to clarify some
17 points for the record, as anyone who tries to read
18 this in print isn't going to have the privilege of
19 seeing the video we just watched --

20 A Right.

21 Q -- during your narration of the video clip,
22 you referenced to multiple vehicles making a left

1 turn onto Illinois Route 53 from Walter Strawn Drive,
2 correct?

3 A Correct.

4 Q What -- and they were trying to make left
5 turns onto Illinois Route 53 when they had a red
6 light, correct?

7 A Correct.

8 Q Can you clarify what the signals permit at
9 that intersection in terms of making a left turn?

10 A You cannot make a left on a red arrow.

11 Q The vehicles that were shown in the video
12 that were making left turns, was it on a red arrow?

13 A Yes, it was.

14 Q What type of vehicles were they?

15 A Those were car carriers, truck car
16 carriers.

17 Q So commercial motor vehicles, correct?

18 A Correct.

19 Q In this particular clip, can you just
20 describe for us generally -- strike that.

21 Mr. Vercruysse, in this clip we
22 actually saw an Amtrak train go through the crossing

1 without incident, correct?

2 A That's correct.

3 Q And we saw a lot of vehicles go through the
4 crossing as well as the intersection on the far side
5 of the crossing and none of them had collisions,
6 correct?

7 A That's correct.

8 Q Why then are we still considering the
9 circumstances at this crossing to be unsafe?

10 A The fact that the trucks exiting off the
11 crossing and trying to gain access to Illinois Route
12 53, they had green lights, but there were funeral
13 processions that were actually blocking their route
14 as the funeral processions headed southbound on
15 Illinois Route 53 during a red light, which they are
16 allowed to do by law.

17 Q What potential for an accident happening at
18 this crossing do you believe is illustrated by that
19 video even though the video showed no incident of an
20 accident occurring?

21 A It confirms Mr. Fleck's pictures, first of
22 all, and then, second, it would have that the vehicle

1 or truck would be stuck within the influence (sic) of
2 the crossing and could be struck by a train because
3 they have nowhere to go as the funeral processions
4 continue south.

5 Q And is that what you mean by "it confirms
6 Mr. Fleck's photographs"?

7 A That's correct.

8 Q One question that I had, based on your
9 narration of the video, you referenced at the time
10 that the funeral procession was headed southbound on
11 Illinois Route 53 through a red light -- I heard
12 you -- I believe I heard you, anyway, use the phrase
13 that the trucks that were headed eastbound on Walter
14 Strawn Drive were properly trying to exit Strawn
15 Road.

16 Q Was that your testimony?

17 A That's correct.

18 Q Can you explain what you mean by that?

19 A At that point, the traffic signals provided
20 a green light both at the presignal and then at the
21 far side signal at the intersection of 53. They were
22 able to progress on that green light to gain access

1 to the intersection.

2 Q But what happened?

3 A But at that point, when they got closer to
4 the intersection, they realized that there was a
5 funeral procession that was heading southbound in
6 direct conflict with them and they were delayed on
7 the -- in the track area or just on the east side of
8 the track.

9 Q So do those circumstances impact the safety
10 of the Strawn Road crossing?

11 A Most definitely.

12 Q How so?

13 A In having a traffic signal where the design
14 for the preemption and the rail safety aspect is to
15 provide a green to allow trucks to exit or other
16 vehicles to exit off the crossing, we have a
17 conflicting design that is incompatible when we have
18 funeral processions heading south on 53.

19 Q Mr. Vercruysse, based on your observations
20 at the crossing and information that you have
21 received during the time period that this motion to
22 reopen has been granted and the hearing matter has

1 been pending, are there any further safety issues at
2 this crossing that you want to highlight that were
3 not shown in the video that you just took?

4 A No.

5 Q As of the date of this administrative
6 hearing, what is Staff's desired outcome for the
7 Commission voting on interim relief in relation to
8 Staff's motion to reopen?

9 A For the interim of temporary closure of the
10 crossing.

11 Q Why?

12 A Because of this funeral and truck
13 procession conflict and that we feel that there isn't
14 an appropriate design fix and that we don't want to
15 allow other human error aspects to come into play
16 that could create a tragedy.

17 MS. ANDERSON: Your Honor, at this time I would
18 move for the admission of Staff Exhibit 6 as well as
19 Staff Exhibit 11.

20 MR. SHUMATE: No objection from the Railroad.

21 MR. SCOTTI: No objection from CenterPoint.

22 MR. PARRISH: No objection, IDOT.

1 MR. STREICHER: No objection with the Village.

2 JUDGE KIRKLAND-MONTAQUE: Staff's Exhibits --
3 I'm sorry.

4 Staff's Exhibits 6 and 11 are
5 admitted.

6 (Whereupon, Staff's Exhibit
7 Nos. 6 and 11 were admitted
8 into evidence.)

9 MS. ANDERSON: Okay. And, your Honor, just I
10 would note the paper copies of the exhibits -- I have
11 hard versions available for the court reporter to --

12 JUDGE KIRKLAND-MONTAQUE: Okay.

13 MS. ANDERSON: -- stamp; but for the video, for
14 the purposes of recordkeeping, I'm going to have the
15 IT Department give me another copy of the disk to
16 somehow include in the file.

17 JUDGE KIRKLAND-MONTAQUE: Okay.

18 MR. SCOTTI: Are we calling the video
19 Exhibit 11?

20 MS. ANDERSON: Yes. Yes, that was Staff
21 Exhibit 11.

22 JUDGE KIRKLAND-MONTAQUE: Correct.

1 MS. ANDERSON: Your Honor, at this time I have
2 no further questions for the witness and I would
3 tender him for cross-examination, but I would like to
4 note that I do request the ability to potentially
5 call him in the future as a rebuttal witness if
6 further engineering testimony is offered by the other
7 parties.

8 JUDGE KIRKLAND-MONTAQUE: Okay. On that note,
9 I think it's time for a break. We need to get lunch
10 and I think we'll do it now and allow the
11 cross-examination of the witness when we return.

12 MR. SHUMATE: Your Honor, if I may, since we're
13 going second, the Railroad, I have five witnesses on
14 the list. Of those five, four of them should --
15 should take literally 5 minutes each.

16 JUDGE KIRKLAND-MONTAQUE: Okay.

17 MR. SHUMATE: And then the expert will take
18 approximately an hour.

19 JUDGE KIRKLAND-MONTAQUE: Okay.

20 So -- I'm sorry. Mr. Streicher.

21 MR. STREICHER: Judge, we also have a
22 situation. One of our disclosed witnesses, Chief

1 Hayes, who is the chief of police for the Village of
2 Elwood, has been outside of the city -- out of state
3 for a professional conference and he came in to
4 testify. He has to return tonight, though.

5 And if the other parties would
6 agree -- and with your permission, Judge -- if,
7 perhaps, at some point after -- or -- after the UP's
8 witnesses, if we could put the chief on out of order
9 to allow him to return to his conference.

10 JUDGE KIRKLAND-MONTAQUE: I don't have a
11 problem with that.

12 MS. ANDERSON: Staff has no objection.

13 JUDGE KIRKLAND-MONTAQUE: We could be off the
14 record.

15 (Whereupon, a recess was taken.)

16 JUDGE KIRKLAND-MONTAQUE: Back on the record.

17 And I believe, Mr. Shumate, it's your
18 turn to cross-examine the witness.

19 MR. SHUMATE: Thank you, your Honor.

20

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22

1 CROSS-EXAMINATION

2 BY

3 MR. SHUMATE:

4 Q Mr. Vercruysse, we've used the term
5 "presignal" several times at the hearing. And just
6 for the benefit of the judge, can you define what a
7 presignal is, please.

8 A A presignal is used in advance as a
9 supplemental signal at a highway-rail intersection so
10 that you can stop traffic prior to a highway-rail
11 grade crossing generally based upon insufficient
12 distance between the tracks and then the intersection
13 itself.

14 Q So a presignal is a traffic signal, it's
15 not a railroad signal?

16 A Correct.

17 Q So a presignal would have a red
18 light/yellow light/green light?

19 A That's correct.

20 Q Thank you.

21 Okay. Now, in -- after Mr. Fleck's
22 e-mails and the meeting that was held and your

1 on-site visits to the location, as a general matter,
2 the railroad signals at Walter Strawn Road, they
3 worked as designed; is that correct?

4 A Correct.

5 Q And the traffic signals at the intersection
6 with Route 53, the interconnected signals and the
7 presignals, they worked as designed; is that correct?

8 A Correct.

9 Q So the one element that negated the -- I'll
10 call it the clearing green, that would be funeral
11 processions?

12 A Correct.

13 Q Could you also have something negating a
14 clearing green if two tractor-trailer trucks
15 traveling north now on 53 make a left-hand turn onto
16 Walter Strawn Drive and they're like a chain of
17 elephants, one right behind the other, and they get
18 stopped by the crossing, the gate's coming down, you
19 have the clearing green and a truck's trying to come
20 and it can't go any further because of the elephant
21 of the two trucks?

22 Is that a possibility?

1 A Yes, it is a possibility.

2 Q Okay. Thank you.

3 All right. With regard to the
4 meetings that were held with the various parties, to
5 your knowledge, was Burlington Northern Santa Fe
6 invited to the meetings at all?

7 A No.

8 Q Okay. Was Amtrak asked to attend the
9 meeting?

10 A They were not.

11 Q You mentioned that you had a personal visit
12 to the Abraham Lincoln National Cemetery. When you
13 talked with the volunteers there, did they verify the
14 same numbers that was in the newspapers, between 5
15 and 30 funeral processions on a weekday?

16 A Yes.

17 Q I'm almost done.

18 To your knowledge, the Union Pacific
19 Railroad is not allowed to close unilaterally on its
20 own Walter Strawn Road crossing; is that correct?

21 A The only situations would be like an
22 emergency rail brake. If you're not itemizing that,

1 then, no, not unilaterally closing it.

2 Q Okay. To your knowledge, during the -- and
3 I'll call this a process -- from the time Mr. Fleck
4 gave you the information concerning his concerns
5 about the crossing and the meetings that were held,
6 do you recall whether or not the Union Pacific ever
7 requested that either IDOT or the Illinois Commerce
8 Commission use their powers to seek some form of
9 regulation of the funeral processions through the
10 Walter Strawn -- excuse me -- through Route 53 either
11 by amber light signals or separate legislation or
12 even regulation?

13 A There was a recommen- -- part of the
14 response letter from our letter to the UP included
15 some signage and other discussion as far as
16 modifications to the law, yes.

17 Q Okay. Did the Union Pacific hire the Will
18 County Sheriff's Office to provide the intersection
19 policing at the intersection of Walter Strawn Road
20 and Route 53 for funeral procession events?

21 A Yes.

22 Q To your knowledge, is Union Pacific paying

1 for that as opposed to anybody else?

2 A To the best of my knowledge, yes.

3 Q And was that a recommendation from the
4 Illinois Commerce Commission that that activity take
5 place?

6 A It was a recommendation as an immediate
7 safety -- implementing immediate safety action.

8 Q Also during this period, did the Union
9 Pacific seek an X Resolution to change the gate
10 deployment timing to reduce gate incidents at the
11 Walter Strawn Road railroad grade crossing?

12 A Yes.

13 Q And did the Illinois Commerce Commission
14 give an X Resolution permitting that?

15 A Yes.

16 Q And was that implemented?

17 A Yes, it was.

18 Q Okay. Did the Union Pacific ask the
19 Illinois Commerce Commission to reconsider moving the
20 stop bar at the presignal back from the current
21 11 feet to -- is it 40 feet?

22 A Yes.

1 Q And did the Union Pacific place video
2 monitoring at the crossing to analyze both train
3 signal and truck and funeral behavior?

4 A Yes.

5 Q Okay. To your knowledge, has the Union
6 Pacific, or through its contractor, provided the
7 videotapes from the crossing monitoring to the
8 Illinois Commerce Commission?

9 A Yes.

10 Q Okay. We could -- I ask you just for a
11 second if you could put that video back up just for a
12 second. This is the last question.

13 Okay. If you could fast-forward to
14 where you had the truck that carries automobiles that
15 was basically following the crossing.

16 Okay. That's good.

17 Okay. What's the time on the video on
18 that right now?

19 A 2 minutes and 6 seconds.

20 Q Okay. 2 minutes and 6 seconds for the
21 record.

22 All right. Now, looking at the still

1 of this video -- don't start it yet -- you can see a
2 sign there that says "stop here on red." You can't
3 see the word "here" and you can't see all of "stop,"
4 but it's "op on red," right?

5 A Yes.

6 Q Okay. And is that "stop here on red" -- is
7 that what it says, the sign?

8 A Yes, it does.

9 Q Okay. And is that where the stop bar is?

10 A Yes, it is.

11 Q Okay. So the "no turn on red" sign, that's
12 further west?

13 A Correct.

14 Q Okay. Now, this truck that is following
15 the crossing, it's ahead of all of the presignals; is
16 that correct?

17 A That's correct.

18 Q So the driver, based on this photograph --
19 or this video, would not be able to see that
20 presignal; is that correct?

21 A From the position he's at at that moment,
22 yes.

1 Q Okay. Now, the -- throughout this entire
2 video, the entire presignals on the cantilever cannot
3 be seen, is that correct, from where the -- where you
4 took the photographs -- or the video?

5 You can't see the ones above; is that
6 correct?

7 A No.

8 Q No, it's not correct?

9 A It's not correct.

10 Q So in the photograph that I'm looking at
11 now, I can see, like, the bottom two lights maybe,
12 but I can't see all the lights.

13 A That's correct.

14 Q Okay. And if you run that video, is there
15 any time when you can see all the lights?

16 A Not all the lights, no.

17 Q Okay. And how far do you think you're
18 standing back from the stop bar, which is obviously
19 in front of you?

20 A Approximately 10 feet.

21 Q Okay. So at 20 feet from the angle that
22 you are at, you can't -- you could not see

1 potentially the presignal?

2 A That's not correct.

3 MR. SHUMATE: Okay. All right. Thank you very
4 much. No further questions.

5 JUDGE KIRKLAND-MONTAQUE: Ms. Anderson, any
6 redirect?

7 MS. ANDERSON: Yes, your Honor. Thank you.

8 REDIRECT EXAMINATION

9 BY

10 MS. ANDERSON:

11 Q Mr. Vercruysse, can you describe for us
12 what was at issue in the X Resolution that you just
13 referenced in your testimony based on what
14 Mr. Shumate asked you?

15 A The issue was the gate down -- or the gate
16 delay time.

17 Q Okay. And what is an X Resolution? What
18 is that process?

19 A An X Resolution is a form of a Commission
20 order that is established when a railroad provides a
21 petition to change or modify a warning device.

22 Q So although the -- the hearing that we are

1 gathered for today was pending, did the Commerce
2 Commission in the year 2014 enter an X Resolution
3 with respect to the Strawn Road crossing?

4 A Yes.

5 Q What was at issue in that specific
6 X Resolution?

7 A That was to increase the gate delay time.

8 Q Has that change been implemented?

9 A Yes, it was.

10 Q Do you recall when that change was
11 implemented?

12 A It was August 22nd, 2014.

13 Q What effect, if any, did that change have
14 on the conditions at the Walter Strawn crossing?

15 A I believe it made it worse.

16 Q Why?

17 A I was present when the act- -- when the
18 gate delay time was changed. And in other
19 circumstances at other locations where we've had high
20 truck traffic, we've increased it and had better
21 success. In this situation we actually saw the first
22 activation, the gate was broken while I was there.

1 In increasing that delay, it seemed
2 that the motorists were progressing through the
3 intersection quicker or trying to key in on other
4 visual cues, including the far signal.

5 Q So your -- strike that.

6 Did your safety concerns about the
7 Strawn Road crossing go away or were relieved in any
8 way by the implementation of the change in gate delay
9 pursuant to that X Resolution?

10 A No, they did not.

11 Q So we continue to move forward with this
12 hearing process, correct?

13 A Correct.

14 Q You were also asked by Mr. Shumate about a
15 potential relocation of the stop bar, correct?

16 A That's correct.

17 Q What idea or ideas were brought to your
18 attention by the Union Pacific Railroad Company
19 concerning the placement of the stop bar?

20 A The idea was to place the stop bar at
21 40 feet in advance of the traffic signal.

22 Q Where is the stop bar currently located?

1 A Approximately 10 feet from the presignal.

2 Q Has the Illinois Commerce Commission sought
3 any effort to have the stop bar relocated?

4 A Initially when the crossing was first
5 installed, the stop bar was actually even closer to
6 the location, but then it was moved back to this
7 current position.

8 Q In light of the Union Pacific Railroad
9 Company contacting you about potentially relocating
10 the stop bar during the pendency of this hearing
11 subsequent to Staff's motion to reopen, has the
12 Illinois Commerce Commission done anything to seek
13 the relocation of that stop bar?

14 A No, we have not.

15 Q Why?

16 A Historically we've received complaints in
17 the area and the complaints that we usually receive
18 are that you cannot see up and down the tracks. If
19 we put the stop bar 40 feet away from this crossing,
20 we change that view.

21 What we try to do is make it so that
22 they're -- a vehicle has a sight line to the

1 presignal, but then also has an ability to see up and
2 down the tracks. That is the reason the stop bar is
3 kept closer and it also reduces the clearance
4 distance that we need.

5 Q Just to kind of clarify it for us, if you
6 were to look at the still of the video that you took,
7 which was admitted as Staff's Exhibit 11, are you
8 able to illustrate using that image what you mean in
9 terms of someone being able to see up and down the
10 tracks?

11 A From this exhibit, it would be difficult
12 since it's showing to the eastbound. It does not
13 show north and south.

14 Q Do you have any other image that was part
15 of Staff's exhibits that you would be able to use to
16 illustrate what you mean by that?

17 A If we look at the Mr. Fleck e-mail,
18 Exhibit -- Staff Exhibit 7, and we were to look at
19 the -- Page 2, we would see the white truck again at
20 this location and the stop bar and we see a line of
21 trees and we see the railroad right away to the
22 south.

1 Q Okay.

2 A That would be the line of sight that we're
3 referencing.

4 Q Can I have you pull that exhibit up on the
5 computer -- I believe that's Staff Exhibit No. 7 --
6 and illustrate for us what you mean concerning the
7 sight lines that you referenced in your testimony.

8 A Yes. As noted in the picture, the vehicle
9 has progressed up past the stop bar, but we also show
10 to the south the view along the tracks. And what we
11 try and we seek is a clear line of sight for 500 feet
12 further down the tracks.

13 If we move the stop bar 40 feet
14 further back, we're decreasing that sight line and
15 that's the reference that I've had with complaints in
16 the past -- not specific to Strawn Road, but other
17 crossings where we have presignals.

18 Q So when you were testifying and you
19 referenced, you know, we are seeking visibility up
20 and down the tracks, you're testifying from the point
21 of view of someone who has positioned himself at the
22 stop bar?

1 A That's correct.

2 MS. ANDERSON: Your Honor, I have no further
3 questions.

4 JUDGE KIRKLAND-MONTAQUE: Okay. Mr. Streicher.

5 CROSS-EXAMINATION

6 BY

7 MR. STREICHER:

8 Q Good afternoon, Mr. Vercruysse.

9 A Good afternoon.

10 Q Do you still have Exhibit 7 in front of
11 you, the e-mails between yourself and Mr. Fleck?

12 A Yes, I do.

13 Q Do you have any reason to believe that the
14 representations of Mr. Fleck as to the facts and
15 photographs are in any way inaccurate?

16 A I do not.

17 Q And the observations and photographs in
18 Exhibit 7, in fact, are consistent with your personal
19 observations of the different situations at the
20 Strawn Road crossing; is that correct?

21 A That's correct.

22 Q Would you please turn to Exhibit 2.

1 A Yes.

2 Q Exhibit 2 is the rail safety coordination
3 meeting minutes of October 2nd, 2013, amended with
4 the red corrections, correct?

5 A Correct.

6 Q And if you would turn, please, to Page 4,
7 the second paragraph that begins with the words "To
8 the north and west."

9 A Yes.

10 Q Would you read that paragraph, please.

11 A "To the north and west at I-55 IDOT is
12 nearing completion of the new interchange at Joliet
13 Arsenal Road, which is supposed to serve as the main
14 access to the intermodal and industrial developments
15 in the Village of Elwood and City of Joliet."

16 Q Okay. Initially is that new interchange at
17 I-55 complete?

18 A Yes, it is.

19 Q And the sentence in there stating, quote,
20 Which is supposed to serve as the main access to the
21 intermodal and industrial developments in the Village
22 of Elwood and City of Joliet, is it your

1 understanding that that means the main access to
2 those facilities in lieu of Strawn Road?

3 A Correct.

4 Q Would you turn to Exhibit 5, please.

5 A Yes.

6 Q Exhibit 5 is the letter signed by
7 Mr. Steid, S-t-e-i-d, of October 11th, 2013.

8 He testified that you participated in
9 the drafting of that letter?

10 A That's correct.

11 Q Bear with me one moment.

12 In the last paragraph on the first
13 page of that letter about halfway through there's a
14 sentence that begins "despite these existing safety
15 features."

16 A Yes.

17 Q Do you see that?

18 Would you read that sentence till the
19 end of the paragraph out loud, please.

20 A Yes.

21 "Despite these existing safety
22 features, along with supplemental signing and

1 striking safety measures, it has been documented by
2 the Village and UP that there are occasions that
3 existing safety measures are compromised by the
4 incompatible nature of funeral processions continuing
5 south on Route 53 to the Lincoln National Cemetery."

6 Do you want me to continue?

7 Q The next sentence, please.

8 A "With continued review of this unique
9 situation, subsequent to the meeting, I believe that
10 new term options are limited to adequately address
11 the situation and provide motorists a clear
12 right-of-way."

13 Q Okay. And the balance of that letter
14 either suggests a voluntary speed reduction by the
15 Union Pacific Railroad or the temporary closing of
16 the Strawn Road crossing; is that correct?

17 A Correct.

18 Q Now, at the bottom of Page 1, you -- the
19 letter uses the phrase, quote, unique situation,
20 quote.

21 That refers to the funeral
22 processions?

1 A Yes.

2 Q Does it refer in any way to the
3 configuration of how Highway 53 and Strawn Road come
4 together in the limited amount of space with the
5 signals that are there?

6 A No.

7 Q In the testimony by Ms. Anderson on behalf
8 of ICC Staff and questions by Mr. Shumate on behalf
9 of the Union Pacific Railroad, you testified as to
10 some changes that were made to the crossing in an
11 attempt to make it safer.

12 Do you recall that testimony
13 generally?

14 A Yes.

15 Q And one of the issues that both
16 Ms. Anderson and Mr. Shumate asked you questions
17 about were the timing of the gates.

18 Do you recall that?

19 A Yes.

20 Q Okay. The changes that were proposed by
21 the parties were all made in good faith.

22 You believe that, don't you?

1 A I do.

2 Q Okay. The -- changing the timing of --
3 from when the flashing lights go on to when the gates
4 come down, you testified that that did not, in your
5 opinion, have an impact on the safety of the
6 crossing; is that correct?

7 A Can you restate the question, please.

8 Q Let me try and restate it.

9 In your opinion, changing the timing
10 did not help with the safety of the crossing; is that
11 correct?

12 A Correct.

13 Q Another change you're aware of is that the
14 Union Pacific Railroad installed video cameras at the
15 crossing.

16 Are you aware of that?

17 A Yes, I am.

18 Q Did the installation of video cameras have
19 an impact on the safety of the crossing, in your
20 opinion?

21 A No.

22 Q Another thing we discussed was the Will

1 County Sheriff. The role of the Will County Sheriff
2 is to, in essence, martial funeral processions
3 southbound on Highway Route 53.

4 Is that your understanding?

5 A Yes, it is.

6 Q In your opinion, did the presence of the
7 Will County Sheriff have a positive impact on the
8 safety of the crossing?

9 A I believe there is a positive impact.

10 Q Do you believe it obviated the safety
11 issues at the crossing?

12 A No, it does not in my opinion.

13 MR. STREICHER: Thank you, Mr. Vercruysse.

14 MR. PARRISH: IDOT has no questions.

15 JUDGE KIRKLAND-MONTAQUE: Mr. Scotti -- or did
16 you have any redirect, Ms. Anderson?

17 MS. ANDERSON: No.

18 JUDGE KIRKLAND-MONTAQUE: Mr. Scotti.

19 MR. SCOTTI: Thank you.

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CROSS-EXAMINATION

BY

MR. SCOTTI:

Q To kind of summarize your opinion on why you believe the crossing needs to be closed on an interim basis, am I correct to do that by saying that the funeral processions is the main problem that you're trying to avoid?

A I would say it's the funeral processions and how they integrate with the traffic signal operations.

Q Okay. Now, early on in this case, the Illinois Commerce Commission recommended that if someone provided police regards to control the movements at the presignal on Strawn Road and coordinate the funeral processions during the hours that funeral processions may exist, that was one of the ways that they could make a crossing safer in the interim, correct?

A That was noted as an interim immediate possibility.

Q Correct. And that's what we're talking

1 about here today, right, the interim and not the
2 long-term solution to the safety issues at the
3 crossing?

4 A No, I believe that the immediate time --
5 that was immediate and we've been almost a year now.

6 Q When it's your recommendation to close the
7 crossing, for what period of time do you believe it
8 would be closed?

9 A I do not have a time frame for that.

10 Q Given your experience as an ICC rail safety
11 expert, what do you estimate the time it will take to
12 come up with a final solution and to implement that
13 solution?

14 A It's my understanding that the Illinois
15 Department of Transportation is in the process of a
16 Phase 1 study for a grade separation in the vicinity,
17 but it depends on the partners in this area.

18 Q If everybody was locked arms and agreed
19 that a grade separation that they designed was going
20 to be the solution, would that take at least 18
21 months to 2 years to get funding for and build and
22 construct?

1 A Potentially.

2 Q So you're asking for the crossing to be
3 closed for potentially 18 months to 24 months; is
4 that correct?

5 A No, that's not what I'm asking for.

6 Q Okay. You can clarify when you say a
7 temporary closing so I can be more clear on that.

8 A The temporary closing is barricading and
9 having the traffic rerouted. The issue is for a
10 separate hearing in terms of, if a bridge is
11 anticipated by the parties, then we have to discuss
12 the scheduling moving forward.

13 In my past roles at the Illinois
14 Department of Transportation, we had moved to
15 construction sooner than that and had constructed
16 bridges. And most recently the Union Pacific
17 constructed a bridge in less than a year.

18 Q Okay. Well, that's encouraging, but we're
19 talking about a long-term closure, meaning at least a
20 year, right?

21 A It depends upon the parties and the will --
22 if there's a will to have a bridge installed.

1 Q Now, when the Will County Sheriff's
2 Department began providing sheriffs at the Walter
3 Strawn crossing at the cost of Union Pacific, did you
4 participate in how they were going to be stationed
5 and what actions they were going to be taking?

6 A We attended an initial meeting with the
7 Union Pacific, the Will County Sheriff's Department
8 to discuss and see how they felt that they would best
9 serve at the crossing.

10 Q Okay. And what was the agreed-upon
11 arrangement for the Will County sheriffs at the
12 crossing between you, meaning the ICC, and Union
13 Pacific?

14 A There was no agreed-upon protocol. And
15 that's what was asked for at the end of that first
16 meeting. In the memorialization that I provided in
17 part with the case, we identified that there should
18 be a need for a protocol to ensure that there's a
19 similarity of function or if there's a best practices
20 learned so that the parties could provide a better
21 situation if needed.

22 Q Did the Illinois Commerce Commission have a

1 proposed protocol they thought that the sheriffs
2 could follow that would improve the safety of the
3 crossing more so than they already have?

4 A Initially we had provided comments relative
5 to the possibility of two units and the potential for
6 blocking at the presignal; but given that its their
7 expertise and their enforcement, we left it to law
8 enforcement to come up with the different protocols
9 at that point.

10 Q So is it your understanding that there are
11 two officers and two patrol cars at the crossing at
12 all times when funeral processions would be present?

13 A It's my understanding that's what they're
14 supposed to be doing, yes.

15 Q And do you have any reason to believe
16 they're not doing that?

17 A I do not.

18 Q Have you been out there to personally
19 observe the Will County Sheriff's deputies in action?

20 A Yes, I have.

21 Q On how many occasions?

22 A It was three times that I saw.

1 Q And during those three times, did you
2 witness things that showed you that the sheriffs were
3 making the crossing safer?

4 A On certain occasions, yes.

5 Q And what did you witness that led you to
6 the conclusion that on certain occasions the Will
7 County sheriffs were making a situation safer?

8 A Relative to the issue of funeral
9 processions, I saw where they would block at the
10 presignal itself.

11 Q And how would they block at the presignal?

12 A With their -- actual -- with their vehicle
13 driving towards it. That was on one occasion.

14 Q And was there also an escort for the
15 funeral procession as it headed south?

16 A With that time, I don't recall if there
17 was. It was a mix of the different times I was
18 there.

19 Q Did you observe anything that the Will
20 County Sheriff's Department did that made the
21 situation less safe?

22 A Last week I witnessed where the Will County

1 Sheriff's deputy had parked in the southbound lanes.
2 In that situation, a truck stopped near the presignal
3 could still come over the tracks and come and be in
4 conflict, which would then make it a maneuver by the
5 deputy to try and control traffic or to try to stop
6 the funeral procession and allow that truck to go
7 through. That could mean additional time, which
8 could mean a potential for problems.

9 Q Is that the kind of issue that could be
10 avoided if there was a protocol in place and more
11 training for the Sheriff's deputies that were manning
12 that post?

13 A I don't know that it would solve it.

14 Q You don't know if the Sheriff's deputies
15 were educated on what to do, that they could carry
16 out those instructions?

17 MS. ANDERSON: Objection, your Honor.

18 Speculation. He's not one of the Sheriff's deputies.

19 JUDGE KIRKLAND-MONTAQUE: Sustained.

20 BY MR. SCOTTI:

21 Q As part of an ICC Staff member, do you
22 involve yourself in training the public in safety?

1 A Yes, I do.

2 Q And so you acknowledge that it is possible
3 for people to be trained to conduct themselves in a
4 manner that's safer with more knowledge and
5 information?

6 A There is a certain amount of training, but
7 when you have a green indication in front of you that
8 allows you to go through the crossing legally and
9 then there's a potential conflict, it still creates
10 problems, even if we have the potential for a sheriff
11 in the area. That helps, I agree and made us feel
12 better and we appreciate the service, but it still
13 allows for the potential of human error.

14 Q But isn't human error a factor in every
15 single crossing across the state of Illinois every
16 time a truck or a vehicle goes across it?

17 A It is, but with certain crossings that seem
18 to have more probability or have situations that now
19 have come to light, it becomes even more apparent
20 that human error could be something that would lead
21 to the accident or other situation at the crossing.

22 Q So you think this particular crossing is

1 more prone to human errors than others?

2 A I believe this crossing with the funeral
3 processions in the mix has more potential for human
4 error, yes.

5 Q In the minutes of the meeting that you
6 participated in with the Village of Elwood and Union
7 Pacific and IDOT, I think it was representative that
8 there was approximately -- was it 10,000 vehicles a
9 day going across the Walter Strawn Drive crossing?

10 A That is correct.

11 Q And -- and so if the Illinois Commerce
12 Commission follows your recommendation and closes
13 this crossing, that means 10,000 vehicles are going
14 to have to find another way into the CenterPoint
15 Intermodal Center; is that correct?

16 A If this count is accurate, yes.

17 Q Do you have any reason to believe that the
18 Village would give you false information at that
19 meeting?

20 A It wasn't false information. At the
21 meeting, part of it was to do a fact-finding and see
22 what sort of data is available.

1 Q Well, you know, in any event, if there's
2 5,000 or 8,000 or 10,000 trucks going across the
3 crossing, all those trucks are going to be diverted
4 over alternate routes; is that correct?

5 A That's correct.

6 Q Now, could you pull up your Exhibit
7 No. 5 -- Staff's Exhibit 5, your letter of
8 October 11th, 2013.

9 A Yes.

10 Q If you look at the second page of that, the
11 last two sentences: The first was, "A temporary
12 closure of the Strawn Road closing must also be
13 reviewed by the Village."

14 Did I read that correctly?

15 A That's correct.

16 Q Can you read the next sentence.

17 A "With rerouting a large volume of truck
18 traffic, an impact analysis is needed to address
19 safety and mobility in the region."

20 Q And do you know if anyone has done an
21 impact analysis to address safety and mobility in the
22 region?

1 A I'm aware that the Village of Elwood has
2 looked at different rerouting. Whether it would be a
3 full analysis, I do not know.

4 Q The Illinois Commerce Commission, they're
5 charged not just with the safety of the motorists at
6 this crossing, but all crossings, correct?

7 A That's correct.

8 Q Have you evaluated -- I'm not saying you;
9 the Illinois Commerce Commission -- alternate routes
10 that these trucks would take from the Walter Strawn
11 where it's closed to get into the CenterPoint
12 Intermodal Center?

13 A We are familiar with the other routes.

14 Q What routes are you familiar with?

15 A As far as the Arsenal-Baseline route being
16 the main access point. And then in terms of
17 Manhattan Arsenal Road, we're familiar with those
18 locations.

19 Q Did you also look at Laraway Road?

20 A We did look at Laraway Road.

21 Q Did you look at River Road that's further
22 south?

1 A We have looked at River Road, yes.

2 Q And there are crossings on most of these
3 roads, correct?

4 A That's correct.

5 Q And did you evaluate the safety at those
6 crossings when they receive an influx of additional
7 trucks and motor vehicles?

8 A As part of the High-Speed Rail Program and
9 the initiative by IDOT, we've reviewed each of those
10 crossings and have performed diagnostic reviews with
11 all of the parties with the current traffic and if
12 there's issues with the current design.

13 Q Did you -- when you did that analysis, did
14 you take into account the potential influx of
15 hundreds or thousands of potential new trucks?

16 A We understood that there could be the
17 potential for that, yes.

18 Q And is that study or that impact analysis
19 anywhere in the record before this Court?

20 A These were observations and analysis. It
21 wasn't a written document, other than the diagnostic
22 review forms.

1 Q Are you familiar with the administrative
2 code on the considerations that must be taken into --
3 to account the criteria for closing a crossing?

4 MS. ANDERSON: Objection, your Honor.
5 Relevance. The administrative code that I believe
6 Mr. Scotti is asking to is the administrative rule
7 concerning petitions for closure of a rail grade
8 crossing. In this proceeding we do not have that
9 issue, a petition for closure of a rail grade
10 crossing.

11 There are certain specified criteria
12 and procedures that are going to be required if the
13 Commerce Commission is going to order a crossing
14 permanently closed and destroyed.

15 What we have here is the initial
16 hearing matter reopened on Staff's motion for the
17 purpose of entering interim relief to allow long-term
18 study to take place by the Illinois Department of
19 Transportation in the form of their Phase 1 Grade
20 Separation Study and potentially further study if
21 it's necessary after that point.

22 We're not seeking a permanent closure

1 at the crossing. It doesn't matter whether
2 Mr. Vercruysse is familiar with that administrative
3 rule or not for the purpose of dealing with the
4 matter at today's hearing.

5 MR. SCOTTI: In response, your Honor, I
6 disagree with Ms. Anderson's assessments of the
7 relevance. The statute itself does go to the
8 permanent closure, but the factors that ask the
9 Illinois Commerce Commission to consider before it
10 closes a crossing are relevant here because they all
11 go to public safety. They go to, is there -- are
12 there other adequate alternate routes, you know, what
13 distance of an alternate route is acceptable, and a
14 number of other factors, which are -- which take into
15 account the safety of the entire motoring public and
16 not just at this crossing.

17 There's 8 to 10,000 vehicles that are
18 going to be sent other places. It's important to
19 know where they're going to go and what safety
20 impacts those are going to cause. Wouldn't the
21 Illinois Commerce Commission like to know if they've
22 considered these factors so they're not creating a

1 bigger and greater safety problem elsewhere by trying
2 to solve this particular problem?

3 So since we're talking about closing
4 the crossing for a year or more, this is not a
5 temporary closure where you're closing it for a week
6 to do a construction project. This is not a
7 short-term fix. This is a long-term item and I think
8 that the criteria are worthy for this Court to
9 consider.

10 JUDGE KIRKLAND-MONTAQUE: Well, I agree with
11 Ms. Anderson that, as a rule, it's not applicable
12 here; but if you wish to go over the criteria because
13 you think they're related, then feel free to do so
14 with the witness. But --

15 MR. SCOTTI: Thank you.

16 JUDGE KIRKLAND-MONTAQUE: -- we're not applying
17 the rule right now.

18 MR. SCOTTI: Okay. I'm not asking anybody to
19 apply the rule. I was just asking if he was familiar
20 with it.

21 BY MR. SCOTTI:

22 Q Mr. Vercruysse, are you familiar with the

1 rule 15.36.20?

2 MS. ANDERSON: Your Honor, I think based on
3 what you said, he doesn't have to answer that
4 question. He can feel free to ask about the factors.

5 JUDGE KIRKLAND-MONTAQUE: That was my ruling.
6 You could ask about the factors that are presented in
7 the rule and what his opinion is on the various
8 factors, but the rule itself isn't applicable in this
9 case.

10 BY MR. SCOTTI:

11 Q Mr. Vercruysse, did you consider the amount
12 of adverse distance which this closure will cause the
13 motoring public to drive in order to find a way into
14 the CenterPoint Intermodal Center?

15 A We did not do the full measurements. We
16 are aware, however, that rerouting is a necessity
17 with the closure -- temporary closure.

18 Q So you -- as you sit here, you don't have a
19 fix on how far you're asking the motoring public to
20 travel to get into CenterPoint Intermodal Center as a
21 result of the closing?

22 A That's correct.

1 Q Would you agree that if it's over 4 miles,
2 that that is generally considered too far of a travel
3 to close a crossing?

4 A That's one factor among many.

5 Q But you would agree that is a factor that's
6 considered when closing the distance of alternative
7 routes?

8 A That is a factor considered in that
9 specific rule.

10 Q Have you considered the adequacy of the
11 River Road crossing?

12 A Specific to the closure here, we had just
13 done the diagnostic review.

14 Q And would you agree that the River Road --
15 well, let me ask you, do you know if River Road is
16 capable of handling heavyweight trucks?

17 A I do not know the pavement design, if it's
18 able to handle it.

19 Q Do you know if there are any roads leading
20 into the CenterPoint Intermodal Center that could
21 handle trucks that weigh in excess of 88,000 pounds?

22 A I am not aware.

1 Q So if Walter Strawn was the only entrance
2 into the CenterPoint Intermodal Center for trucks
3 going over 88,000 pounds, would that change your
4 opinion on closing the crossing?

5 MR. STREICHER: Objection. Assumes facts not
6 in evidence.

7 JUDGE KIRKLAND-MONTAQUE: I'm sorry. What was
8 your question?

9 BY MR. SCOTTI:

10 Q My question was, if you assume that Walter
11 Strawn is the only --

12 JUDGE KIRKLAND-MONTAQUE: We'll read it back.

13 (Whereupon, the record was read
14 as requested.)

15 BY MR. STREICHER:

16 Q Mr. Vercruysse, if Walter Strawn Drive was
17 the only road into the CenterPoint Intermodal Center
18 where trucks weighing over 88,000 pounds could access
19 it, would that change your opinion on fully closing
20 the crossing on a temporary basis?

21 MR. STREICHER: Objection. Assumes facts not
22 in evidence and it's an incomplete hypothetical.

1 JUDGE KIRKLAND-MONTAQUE: Overruled.

2 THE WITNESS: With the concerns that we've seen
3 with the funeral processions, it would not change my
4 mind.

5 BY MR. SCOTTI:

6 Q Do you know if, when you're rewriting --
7 rerouting the traffic from this location to others,
8 whether it's going to be an incompatible mix of truck
9 and vehicular traffic at other locations in the
10 region?

11 A I do not know of another location that
12 would have the incompatible mix like this.

13 Q Well, you didn't do any -- you didn't do
14 any study or have any traffic impact study done at
15 that point, did you?

16 A Could you restate the --

17 Q Sure.

18 Did the Illinois Commerce Commission
19 undergo a traffic impact study of any kind before it
20 came to the conclusion that a crossing should be
21 closed?

22 A No study, no.

1 Q In the letter you wrote on October 11th,
2 2013, didn't you say in your words, With rerouting a
3 large number of truck traffic, an impact analysis is
4 needed to address safety and mobility in the region?

5 A Yes, we did a year ago.

6 Q And that's because you wanted to find out
7 what impact unleashing 10,000 trucks on the region
8 would have on other crossings, other intersections
9 and on the motoring public in general, correct?

10 A If it was 10,000 vehicles. That's part of
11 the whole assessment, was to get the full counting.

12 Q It's a large number of vehicles, you would
13 agree with that, correct?

14 A That's correct.

15 Q And if it's 5,000 or 10,000, it's still a
16 lot of trucks and vehicles being unleashed on the
17 region in locations where they haven't been before?

18 MS. ANDERSON: Objection. Speculation.

19 MR. SCOTTI: Well, they're being rerouted.
20 It's no speculation they're going to have to go
21 somewhere else and the only reason to go through that
22 crossing is to get to CenterPoint Intermodal Center.

1 MS. ANDERSON: Well, your Honor --

2 JUDGE KIRKLAND-MONTAQUE: What is your
3 question? What is the question?

4 BY MR. SCOTTI:

5 Q The question is that the trucks going into
6 the intermodal center over at Walter Strawn, whether
7 they're 5,000 or 10,000, are now going to be
8 traveling routes they haven't traveled in the past to
9 get there, correct?

10 MS. ANDERSON: Your Honor, that supposes a
11 whole lot of things. The -- his testimony on direct
12 and cross by the other parties so far has not
13 involved him identifying specifically what potential
14 routes might be used as an alternate route by a
15 truck.

16 You could hypothetically have a driver
17 that sometimes enters the facility through Entrance A
18 and sometimes enters that facility through
19 Entrance B.

20 If you ask the question the way
21 Mr. Scotti just did focusing on whether you have --
22 what the effect is of having vehicles going a way

1 that they have not gone before, how do you know
2 whether the driver has gone there before?

3 I mean, the -- it's a question that
4 does not work and --

5 MR. SCOTTI: I'll restate my question.

6 JUDGE KIRKLAND-MONTAQUE: Please.

7 BY MR. SCOTTI:

8 Q The trucks that were formerly entering
9 Walter -- CenterPoint Center off of Walter Strawn
10 Road, are now going to enter the CenterPoint Center
11 from different avenues, correct?

12 A Correct.

13 Q And the impact of the traffic on those
14 different avenues is unknown to the Illinois Commerce
15 Commission, correct?

16 MR. STREICHER: Objection. It's a
17 mischaracterization of the prior evidence regarding
18 the original 2001 facts as to the number of trucks on
19 other roads, specifically Arsenal to Baseline, which
20 was predicted for 27, 28,000 trucks a day.

21 It's a mischaracterization, Judge.

22 MR. SCOTTI: It sounds like argument.

1 JUDGE KIRKLAND-MONTAQUE: I'll allow you to
2 restate the question one more time.

3 BY MR. SCOTTI:

4 Q It is unknown to the Illinois Commerce
5 Commission which alternate routes the trucks that had
6 formerly used Walter Strawn Road to enter the
7 CenterPoint Center will be taking if the crossing is
8 closed, correct?

9 MR. STREICHER: The same objection, your Honor.

10 JUDGE KIRKLAND-MONTAQUE: I think that's a bit
11 more clear. He said it's unknown.

12 I'll allow it. Overruled. I'll allow
13 the answer.

14 THE WITNESS: Staff would assume that they
15 would be going the 55-Arsenal-Baseline route.

16 BY MR. SCOTTI:

17 Q And does Staff have any understanding of
18 that route's ability to handle the additional trucks
19 and the routes upon which those trucks would take to
20 get there?

21 A As indicated previously, it was supposed
22 that the Arsenal-Baseline route was to handle this

1 majority of traffic.

2 Q Well, how many -- do you have any idea how
3 much traffic they're already handling?

4 A I do not.

5 Q And then the trucks would have to get from
6 the Walter Strawn Drive entrance to the Arsenal Road
7 exit somehow as well, wouldn't they?

8 A Yes.

9 Q And that would be a lot of other interim
10 roads that would be traveled by these trucks being
11 diverted?

12 In other words, they would have to
13 take -- they would have to take some road from Walter
14 Strawn Drive to get to Interstate 55 and to exit onto
15 Arsenal Road?

16 A Baseline Road to get to Arsenal?

17 Q Can we pull up the -- Exhibit No. 1,
18 your -- I believe it's your first -- Photograph
19 No. 1.

20 If the Walter Strawn Drive is right
21 where the star is, if trucks are being diverted, they
22 have to find their way over to Interstate 55 and -- I

1 can't see -- is this Arsenal Road right here?

2 A Correct.

3 Q So they would have to travel from this
4 point to this point somehow, wouldn't they?

5 A If they made their way to the Strawn Road
6 crossing without having known the route under
7 closure, yes.

8 Q So the trucks that are being diverted could
9 travel, depending on their origin, multiple different
10 routes to get to that location, correct?

11 A Correct.

12 Q Does the Illinois Commerce Commission have
13 any plans to request an impact analysis or to
14 commission one so they can understand the safety and
15 mobility in the region as a result of temporarily
16 closing the crossing?

17 A No.

18 Q I'm going to switch gears a minute and go
19 back to some of the human errors you were talking
20 about that potentially exist at this crossing.

21 If I remember right, you suggested
22 that drivers could be on cell phones, not paying

1 attention and otherwise violating signals. And all
2 these things could add to the hazardous condition of
3 this crossing; is that correct?

4 A That's correct.

5 Q And you would acknowledge, wouldn't you,
6 that these are the things that could happen at any
7 crossing in the state of Illinois and any highway?

8 A That's correct.

9 Q It's your best information that there's
10 approximately 5 to 30 funeral processions a day; is
11 that correct?

12 A That's correct.

13 Q Do you know if most of them are headed
14 north on 53 or south on 53 on their way to the
15 Abraham Lincoln National Cemetery?

16 A They're heading south.

17 Q Well, not all of them, right? Some of them
18 are heading north? Or do you know? What's your
19 information on that? Are they all heading south?

20 A The ones that I've observed on my times
21 there have all been heading south.

22 Q And that's because if they were coming from

1 the north, they would have already turned into the
2 Abraham Lincoln National Cemetery, correct, before
3 they got to Walter Strawn?

4 A That's correct.

5 Q With regard to your video you took on 6- --
6 on June 19th, how long were you at that location
7 before you took that video?

8 A I was approximately 10 minutes there.

9 Q At the time you took the video that showed
10 the funeral processions and the various truck
11 activity that you described, that was prior to the
12 Will County Sheriff's Department being at that
13 intersection, correct?

14 A That's correct.

15 Q With regard to the sight line questions,
16 are drivers allowed to decide for themselves when
17 they want -- well, I'll withdraw that.

18 In your experience, do drivers look at
19 the flashing lights and the gates to determine when a
20 train is coming or do they pull up and are they
21 required to look both ways as well?

22 A It depends on the vehicle.

1 Q What about the commercial trucks that we
2 were witnessing in your video?

3 A The commercial trucks in the video are able
4 to progress through and not have a stop and proceed
5 or mandatory stop.

6 Q When you were being asked questions by
7 Mr. Shumate, counsel for Union Pacific, I'm not sure
8 if I heard one of his questions right, but did he --
9 is it your understanding that the federal guidelines
10 for crossing suggest that the stop bar be put 50 --
11 40 feet back from the crossing?

12 A It's my understanding that that's a comment
13 in the handbook that they had produced from the
14 Federal Highway Administration. That does not take
15 into account the sight lines of mandatory stop
16 vehicles.

17 Q Are you aware of school buses that -- what
18 are mandatory stop vehicles?

19 A Mandatory stop vehicles are school buses
20 or, in certain situations, pace bus or other RTA
21 buses that have to make a stop within 15 -- 30 feet
22 from the rail. And with that situation, there's also

1 the hazardous vehicles, the haulers.

2 Q Are you aware of any of those types of
3 trucks that travel Walter Strawn Road?

4 A I have seen different fuel trucks in the
5 area, yes. And then I've also -- I've been made
6 aware -- I had not personally witnessed -- a Pace bus
7 that has a route through this area.

8 Q Are there any design changes to the
9 crossing that are still being contemplated by the
10 Illinois Commerce Commission Staff to make this safer
11 in the event that it's not closed on a temporary
12 basis?

13 A Not at the time of this hearing, no.

14 MR. SCOTTI: I don't have any more questions
15 for the witness. Thank you.

16 JUDGE KIRKLAND-MONTAQUE: Ms. Anderson.

17 MS. ANDERSON: Thank you, your Honor.

18 REDIRECT EXAMINATION (CONT'D)

19 BY

20 MS. ANDERSON:

21 Q Mr. Vercruysse, in response to Mr. Scotti's
22 questions, you referred to the integration of the

1 funeral processions with the traffic signals at the
2 crossing.

3 Can you describe what you mean by
4 that.

5 A This is where we have the funeral
6 procession proceeding on a red light and allowable by
7 law versus our track cleared green that is trying to
8 move trucks or other vehicles off the tracks
9 eastbound from the -- past the presignal so that
10 they're clear of the tracks. And the situation we
11 have is the conflict as previously described.

12 Q And that's what you find dangerous about
13 the crossing, correct?

14 A Correct.

15 Q You also testified again about sort of the
16 difference between interim and long-term safety
17 solutions for this crossing, correct?

18 A Correct.

19 Q At one point, the Illinois Commerce
20 Commission had identified the use of law enforcement
21 personnel to control traffic at the crossing as an
22 interim solution, correct?

1 A Interim, immediate at that point, yes.

2 Q Okay. So you qualified the use of the word
3 "interim" there by describing -- describing it using
4 the word "immediate."

5 Can you clarify for us, under what
6 circumstances or at what time the use of law
7 enforcement the Commission believed could be
8 effective at dealing with the safety concerns at this
9 crossing.

10 A When we first received the complaints and
11 were trying to look for resolutions or trying to come
12 up with different ways to improve safety and
13 specifically address the funeral processions and
14 trying to get trucks or other vehicles off the
15 tracks, that was the point at which we were trying to
16 come up with different ideas and the idea of law
17 enforcement came up. We also provided that as far as
18 a year ago.

19 And at this point, we've come to
20 review the crossing at different times and have seen
21 it for ourselves with the funeral processions, and
22 there have been other concerns that have been stated,

1 that now we believe that we are passed where that
2 would be an immediate action and we need an interim
3 solution that would include or should be the
4 temporary closure leading to ultimate proposals that
5 would be the bridge if everyone was moving in that
6 direction.

7 Q Okay. So let me clarify, previously the
8 Commerce Commission identified a few different things
9 as potential interim steps to deal with the safety
10 solution. One of those was the use of law
11 enforcement, correct?

12 A Right.

13 Q Another was voluntary speed reduction by
14 the railroad, right?

15 A That's correct.

16 Q Another was the one-way closure of the
17 crossing, correct?

18 A Correct.

19 Q As of the date of today's administrative
20 hearing, why is the Staff of the Illinois Commerce
21 Commission recommending the temporary closure of the
22 crossing as the appropriate relief to be entered on

1 an interim basis until we can evaluate long-term
2 solutions after IDOT finishes their Phase 1 study?

3 A Because of the time that's already elapsed
4 since the condition has been going on. And given
5 that we've had the deputies there and we've seen
6 different concerns and different ways in which it's
7 done, it still doesn't alleviate the human error
8 aspect. That was something that was known when we
9 first proposed that, that that was not to be
10 something that was going to be in place for a long
11 term like that.

12 The other thing is having gone in on
13 June 22nd and witnessing the actual conflict and
14 seeing how it would happen, trying to implement a
15 gate delay that has worked somewhere else to help
16 improve gate breaks at a location that actually did
17 not work.

18 So as we've continued through this
19 process, we've honed in that it's best to do the
20 interim closure and let the parties use their
21 energies towards alternate routing and/or a bridge if
22 that's the -- if that's what is desired.

1 Q You just referenced a concern raised by a
2 visit that you made on June 22nd.

3 What was that concern?

4 A The June 22nd was the video.

5 Q Didn't you testify that you made that video
6 on June 19th?

7 A Oh, 19th. I apologize. Thank you.

8 Q In fact, was it made on June 19th?

9 A It was made on June 19th.

10 Q You were also questioned about how long
11 potentially this crossing could remain closed,
12 correct?

13 A Correct.

14 Q You testified as to different months
15 scenarios that you have experienced at other
16 crossings, correct?

17 A Correct.

18 Q Is the Illinois Commerce Commission, for
19 the purpose of today's hearing, recommending closure
20 for a specific number of months?

21 A No, it's not a specific number of months.

22 Q Is the Illinois Commerce Commission

1 recommending closure until such point as we're able
2 to come up with a permanent solution?

3 A Yes.

4 Q At this time is that permanent solution
5 identifiable?

6 A No, it is not.

7 Q Why?

8 A Because there's any number of alternatives,
9 including a bridge or rerouting or improving other
10 roadway connections in the area that is not within
11 our purview.

12 Q With respect to the creation of a bridge or
13 some sort of grade separation, I believe you
14 previously testified that you are aware that that
15 issue is currently being studied by the Illinois
16 Department of Transportation, correct?

17 A Correct.

18 Q We haven't seen the outcome of that study
19 yet, correct?

20 A We have not, no.

21 Q You were also asked different questions
22 concerning the counts of vehicles that use the Strawn

1 Road crossing, correct?

2 A Correct.

3 Q To what extent does the traffic count
4 matter in your view as to Staff's recommendation that
5 this crossing be temporarily closed?

6 A It matters little when you consider the
7 funeral processions. If we have any number of trucks
8 or a small number, we still could have the
9 possibility of those trucks being blocked on the
10 crossing with funeral processions in the area.

11 Q Are you concerned by the high volume of
12 vehicles that use the crossing?

13 A I am, yes.

14 Q If that number was reduced by a few
15 thousand vehicles a day, would it change your opinion
16 as to your ultimate recommendation of having the
17 crossing closed on a temporary basis?

18 A No, it would not change it.

19 Q Why not?

20 A Because, again, we still have the potential
21 for the conflict. We do not have a way to design and
22 resolve what is currently in place with the funeral

1 processions and the trucks and other traffic exiting
2 the Strawn Road side of the crossing.

3 Q Mr. Vercruysse, you were also asked about
4 the -- sort of the need for having access to the
5 Strawn Road crossing. You were asked the question
6 that if access off of Walter Strawn Road through the
7 crossing was the only way into the facility, would it
8 change your mind as to your recommendation, correct?

9 A Correct.

10 Q And in response to that question, you said,
11 no, it wouldn't change your mind as to the
12 recommendation, correct?

13 A That's correct.

14 Q With respect to highway-rail grade
15 crossings under the Illinois Commercial
16 Transportation Law and what we are authorized to do
17 federally through other statutes, what is the
18 Illinois Commerce Commission's concern with these
19 crossings?

20 A The Commission's concern is safety at the
21 crossing.

22 Q Is there a need for a crossing in the state

1 of Illinois if that crossing is unsafe?

2 A Can you rephrase?

3 Q Sure.

4 Does the Illinois Commerce Commission
5 need to allow crossings to remain open if they are
6 unsafe?

7 A No.

8 Q If the Illinois Commerce Commission
9 determines that a crossing is unsafe, what does it
10 do?

11 A It can close the crossing.

12 Q Just a few more points, Mr. Verduyck.

13 You testified as -- in reference to
14 mandatory stopped vehicles. You identified -- I
15 believe you said hazardous vehicles.

16 Were you referring to hazardous
17 materials vehicles or hazardous materials haulers?

18 A That's correct.

19 Q And if -- in reference to your testimony
20 about the stop bar distance, that 40-foot distance,
21 can you clarify where that interpretation comes from
22 or what idea was posed to you?

1 A The Federal Highway Administration has a
2 handbook that they had provided and in there it
3 identifies the 40-foot mark.

4 Q What specifically does it say with respect
5 to that 40-foot mark?

6 A That the stop bar should be 40 feet in
7 advance of the signal or presignal.

8 Q Is that a requirement that the Illinois
9 Commerce Commission must adhere to?

10 A No.

11 Q Why?

12 A Because we've -- we have the ability to
13 provide what we feel is a safe design and to account
14 for the complaints and different concerns with sight
15 lines up and down the tracks.

16 Q With respect to traffic flow and traffic
17 situations outside of the Walter Strawn crossing,
18 that issue has not been given its own specific study
19 by the Illinois Commerce Commission, correct?

20 A Correct.

21 Q You have inspected crossings in the area,
22 correct?

1 A That's correct.

2 Q And you've considered the conditions at
3 those crossings, correct?

4 A Correct.

5 Q Is the Illinois Commerce Commission
6 required to commission a study before it closes a
7 crossing?

8 A No.

9 Q With respect to the closure of this
10 crossing, you don't know what's going to happen to
11 traffic flows in the region as a whole, correct?

12 A Correct.

13 Q Given the conditions that you are aware of
14 today at this administrative hearing, in your
15 opinion, is it safe to leave that crossing open?

16 A No.

17 MS. ANDERSON: Your Honor, I have no further
18 questions.

19 JUDGE KIRKLAND-MONTAQUE: Thank you.

20 MR. SCOTTI: Just a couple, your Honor.

21 JUDGE KIRKLAND-MONTAQUE: I'm sorry. I'll go
22 in the same order.

1 Mr. Shumate.

2 MR. SHUMATE: No questions at all.

3 MR. STREICHER: I have some questions, Judge.

4 JUDGE KIRKLAND-MONTAQUE: Okay. And please be
5 mindful, if we could keep it to a few questions.

6 MR. STREICHER: I will do that.

7 RECROSS-EXAMINATION

8 BY

9 MR. STREICHER:

10 Q Mr. Vercruysse, you were present when ICC
11 Staff Witness Daniel Powers answered questions and
12 read from the 2002 hearing transcript, weren't you?

13 A Yes.

14 Q And do you recall him reading portions of
15 the transcript that provided evidence at the initial
16 hearing that Strawn Road was a secondary access
17 intended primarily for noncommercial motor vehicles
18 and employees of the park?

19 A Yes, I did.

20 Q Okay. And that statement was due to the
21 fact that there were other routes available for
22 trucks?

1 A Yes.

2 Q Would you believe it's fair to say that the
3 Illinois Commerce Commission in the original 2002
4 hearing then did consider alternate routes, not only
5 as available, but as originally intended?

6 A Yes.

7 MR. STREICHER: No further questions.

8 JUDGE KIRKLAND-MONTAQUE: Thank you.

9 Mr. Scotti.

10 RE CROSS-EXAMINATION

11 BY

12 MR. SCOTTI:

13 Q Mr. Vercruysse, wouldn't you agree that
14 it's the job of the Illinois Commerce Commission to
15 take into consideration the safety of the motoring
16 public as a whole and not just at crossings?

17 A The statute in the Commerce Commission is
18 specific to public highway-rail grade crossings; but,
19 yes, we do look towards safety of the area in around
20 the crossing. Yes.

21 Q And that's why when you wrote your letter
22 on October 11th to Union Pacific and the Village of

1 Elwood and the IDOT, that you said, With rerouting a
2 large volume of truck traffic, an impact analysis is
3 needed to address safety mobility in the region,
4 correct?

5 A Correct. And that was at a time when
6 Arsenal Road interchange was still under
7 construction, is our understanding -- or was our
8 understanding.

9 Q Is that why you put that in there, because
10 of the Arsenal Road construction?

11 A There was contemplation as far as the
12 construction there, yes.

13 Q If the diversion of these trucks was going
14 to create a similar impact on Arsenal Road exit,
15 wouldn't that be something you'd want to study before
16 you closed the crossing?

17 MR. STREICHER: Objection. Asked and answered
18 and speculation.

19 JUDGE KIRKLAND-MONTAQUE: I'm sorry. What was
20 your --

21 MR. SCOTTI: There's a lot of speculation here
22 by the witness because you have to take into account

1 future consequences of their current actions and I
2 want to make sure --

3 MR. STREICHER: I'm going to object to the
4 speaking objection.

5 JUDGE KIRKLAND-MONTAQUE: I'm sorry. Repeat
6 the question, Mr. Scotti.

7 MR. SCOTTI: Sure.

8 BY MR. SCOTTI:

9 Q If the diversion of the trucks from Walter
10 Strawn Road created a situation on Interstate 55,
11 similar to that when the Des Plaines River Bridge was
12 under construction, and there was a backup of trucks
13 trying to get on Arsenal Road, wouldn't you want to
14 have a study telling you the safety impact of that
15 before you made a decision to close Walter Strawn
16 Drive?

17 A It depends on the work zone of the Des
18 Plaines River Bridge and how it impacts the Arsenal
19 Road. There is speculation that is hard to decide or
20 how to identify all of the different concerns in the
21 area with that.

22 Q I would agree, it's difficult to take into

1 account all the different concerns in the area.

2 But wouldn't you agree that you have
3 to balance the safety at this crossing versus the
4 safety and mobility in the region that's going to be
5 impacted by closing it?

6 MR. STREICHER: Objection. It's a
7 mischaracterization of the law and the statute.

8 MR. SCOTTI: That's a legal argument. The
9 witness can answer --

10 JUDGE KIRKLAND-MONTAQUE: Overruled.

11 THE WITNESS: Again, our safety concern is
12 specifically at the highway-rail grade crossing and
13 then how it impacts other rail grade crossings in the
14 area is what the Commission is required.

15 BY MR. SCOTTI:

16 Q But when you make a decision to shut down a
17 crossing, don't you have to balance that decision
18 with the other safety implications as a result of
19 that closure?

20 JUDGE KIRKLAND-MONTAQUE: I think you just
21 asked that question. I mean, you're repeating a
22 question you just asked and I think he answered it.

1 And I think that is more of an argument that you can
2 make later, Mr. Scotti.

3 Do you have any other questions for
4 the witness?

5 MR. SCOTTI: No, ma'am, I don't.

6 JUDGE KIRKLAND-MONTAQUE: Okay.

7 MS. ANDERSON: Just a couple, your Honor, if I
8 could.

9 JUDGE KIRKLAND-MONTAQUE: Very brief, please.

10 MS. ANDERSON: Thank you.

11 REDIRECT EXAMINATION (CONT'D)

12 BY

13 MS. ANDERSON:

14 Q Mr. Vercruysse, the letter that was
15 admitted as one of Staff's exhibits that you
16 collaborated on with Mr. Steid, that did advise the
17 parties to consider the study of traffic and safety
18 issues in the region, correct?

19 A Correct.

20 Q If you know, answer. If you don't know how
21 to answer this question or you don't know the answer,
22 just say "I don't know."

1 Is the Illinois Commerce Commission
2 able to enter relief through any of its
3 administrative hearings that would prescribe
4 modifications to regional roads or things outside of
5 a highway-rail grade crossing?

6 A No.

7 Q So just because the Illinois Commerce
8 Commission wants to raise the issue of potentially
9 investigating broader issues to the parties, it does
10 not mean relief to any discoveries through that
11 investigation can come before the Illinois Commerce
12 Commission or be decided by the Illinois Commerce
13 Commission, correct?

14 A Correct.

15 MS. ANDERSON: Your Honor, I have no further
16 questions.

17 JUDGE KIRKLAND-MONTAQUE: Okay.

18 Are we done with the witness?

19 MS. ANDERSON: Yes, your Honor, I am done. I
20 might call him again in the future for rebuttal, but
21 we're done now for direct.

22 JUDGE KIRKLAND-MONTAQUE: Okay.

1 A Ten years.

2 Q And did you have any railroad experience
3 prior to that?

4 A No.

5 Q And which department do you work for now?

6 A Intermodal.

7 Q And what does "intermodal" mean?

8 A Intermodal is the method of transportation
9 of moving freight from one type to another.

10 Q Are you familiar with the intermodal
11 facility commonly referred to as Global IV on the
12 Union Pacific Railroad system?

13 A Yes, I am.

14 Q May I direct your attention to the map
15 that's displayed right now.

16 That particular map, it's your
17 understanding that was obtained and prepared by the
18 Union Pacific Public Affairs Department and it's
19 basically superimposed on a Google Map?

20 A Yes.

21 Q Okay. What is the nature of your
22 responsibility with regard to the facility at

1 Global IV?

2 A That's one of seven terminals that I
3 oversee.

4 Q Okay. Are you generally familiar with the
5 Burlington Northern's intermodal facility located in
6 Elwood, Illinois, which is south of the Union Pacific
7 facility?

8 A I am.

9 Q And is -- in what town is the Union Pacific
10 facility?

11 A Joliet.

12 Q Where?

13 A Union Pacific? Joliet.

14 Q In Joliet. Thank you.

15 In your own words, does the -- Slide 1
16 of Union Pacific Group Exhibit B, does it accurately
17 show the roads that have been discussed here today
18 and the locations of the intermodal facilities and
19 the Village of Elwood, Route 53 and Route 55?

20 A Yes, it does.

21 Q Okay. Based on your knowledge with regard
22 to the two intermodal facilities, what percentage of

1 the traffic that traverses over Walter Strawn Road
2 crossing is either for ingress or egress to the
3 Burlington Northern facility and also for the Union
4 Pacific facility?

5 A I would estimate the amount -- the percent
6 of traffic going to the BN facility, approximately
7 75 percent of that truck traffic. And in terms of
8 volume going to the Joliet facility for Union
9 Pacific, we would classify that between 200 and 300
10 trucks a day.

11 Q Okay. So the majority of the traffic that
12 we're talking about today at Walter Strawn Road goes
13 to and from, based on your experience, the Burlington
14 Northern facility?

15 A Yes.

16 Q Now, do freight trains that you're aware of
17 traverse the Union Pacific's tracks that are located
18 at the Walter Strawn Road crossing?

19 A Yes.

20 Q And those are freight trains for Union
21 Pacific?

22 A Yes.

1 Q And then there's also Amtrak trains,
2 correct?

3 A Correct.

4 Q Do you know approximately how many freight
5 trains for the Union Pacific go through that
6 crossing?

7 A Yes, I do.

8 Q On a daily basis, how many?

9 A On an average -- on a seven-day average, it
10 would be three.

11 Q Okay. And by the time that those trains
12 traverse through that crossing at Walter Strawn, what
13 would be the speed of those trains?

14 A On the freight trains, it would be 40 miles
15 an hour or less.

16 Q And for the Amtrak trains, do you know what
17 those speeds would be?

18 A I believe it's 79 miles an hour.

19 Q Okay. So if the crossing was temporarily
20 closed and the Commission and governmental entities
21 then work on some program to have a more permanent
22 solution in the area with regard to truck traffic --

1 and I realize you're not an expert in traffic
2 engineering -- just based on your experience in the
3 area, do you think there would potentially be
4 locations where a bridge, which is what the Illinois
5 Commerce Commission and the Illinois Department of
6 Transportation would like to see, could be placed
7 somewhere over the Union Pacific Railroad to help
8 alleviate the problems that we're discussing today?

9 A Yes, I do.

10 MR. SHUMATE: No further questions.

11 JUDGE KIRKLAND-MONTAQUE: Ms. Anderson.

12 MS. ANDERSON: I just have, I think, one
13 question, your Honor.

14 CROSS-EXAMINATION

15 BY

16 MS. ANDERSON:

17 Q Mr. Potocki, when you stated the number of
18 freight trains that use the crossing, did you say it
19 was -- a seven-day average of the number of freight
20 trains was 30, 3-0, trains?

21 A No, 3.

22 Q 3?

1 A Per day.

2 Q 3 per day?

3 A Yes.

4 MS. ANDERSON: Thank you.

5 JUDGE KIRKLAND-MONTAQUE: Is that it,

6 Ms. Anderson?

7 MS. ANDERSON: Yes, your Honor.

8 JUDGE KIRKLAND-MONTAQUE: Mr. Scotti.

9 MR. SCOTTI: Yes, ma'am.

10 CROSS-EXAMINATION

11 BY

12 MR. SCOTTI:

13 Q Mr. Potocki, with trucks needing to access
14 the Joliet intermodal terminal, how many different
15 routes do they have to get there?

16 MR. STREICHER: Objection. Beyond the scope.

17 MR. SHUMATE: It's beyond the scope of the
18 direct, your Honor.

19 MR. SCOTTI: We have the witness here. It's
20 important for the Court to know this.

21 JUDGE KIRKLAND-MONTAQUE: I don't think he's
22 the witness because he didn't testify toward that.

1 He wasn't questioned about that. So I'm going to
2 sustain the objection.

3 MR. SHUMATE: I'm going to offer our Union
4 Pacific Group Exhibit B, both Pages 1 and 2, into
5 evidence. And I think the documents speak for
6 themselves. They show what roads are in the area,
7 what railroad crossings are in the area, what
8 highways are in the area.

9 JUDGE KIRKLAND-MONTAQUE: Did you have another
10 question, Mr. Scotti?

11 MR. SCOTTI: Your Honor, I'd like to call him
12 as a witness before he leaves today. I only have a
13 very few questions.

14 JUDGE KIRKLAND-MONTAQUE: You'd like to call
15 who as a witness?

16 MR. SCOTTI: Mr. Potocki.

17 JUDGE KIRKLAND-MONTAQUE: Because...?

18 I'm sorry.

19 MS. ANDERSON: Well, if he's trying to call him
20 adversely, could we finish our --

21 JUDGE KIRKLAND-MONTAQUE: Yeah.

22 MS. ANDERSON: -- crosses first?

1 MR. SHUMATE: Well, let me -- if I may -- let
2 him ask those questions for purposes of brevity.

3 JUDGE KIRKLAND-MONTAQUE: Okay.

4 (Whereupon, a discussion was had
5 off the record.)

6 MR. SCOTTI: Thank you, your Honor.

7 JUDGE KIRKLAND-MONTAQUE: Because I think we
8 were --

9 MR. SHUMATE: And I ask you to show him that
10 document if he needs his recollection refreshed.

11 MR. SCOTTI: Certainly.

12 BY MR. SCOTTI:

13 Q Mr. Potocki, I'm just going to ask you a
14 few questions about accessing the Joliet intermodal
15 terminal.

16 And -- so my question is, as of today,
17 if trucks need to access your facility, is it true
18 they can only do so by one of two routes?

19 A Correct.

20 Q And what are those two routes?

21 A Off of I-55, you would exit at Arsenal,
22 turn left at Baseline, take that to Center Point Way

1 and enter into the facility. And the other way would
2 be through Walter Strawn up to Baseline, turn right,
3 take that up to Center Point Way to the facility.

4 Q Is only one of those routes available to
5 trucks that weigh over 88,000 pounds?

6 A Yes.

7 Q And which route is that?

8 A That is the Walter Strawn route.

9 Q So the only way for a truck weighing over
10 88,000 pounds to get to your facility is over Walter
11 Strawn Drive, correct?

12 A Correct.

13 Q Do you remember back in May of 2014 when
14 the Village of Elwood put its ordinance not allowing
15 through traffic off of Walter Strawn to get to your
16 facility?

17 MR. STREICHER: Objection, your Honor. One,
18 this is beyond the scope. Two, although Mr. Shumate
19 as an accommodation may wish to let Mr. Scotti ask
20 questions beyond the scope, I don't believe this
21 witness is on the CenterPoint witness list. And this
22 is way beyond the scope, Judge, this whole line of

1 questioning.

2 MR. SCOTTI: This question goes directly to
3 safety as a result of closing the crossing. And it's
4 very short. I'd like to ask the questions and if the
5 Court wants to disregard it, they can.

6 JUDGE KIRKLAND-MONTAQUE: Let me hear the
7 question.

8 MR. SCOTTI: Sure.

9 BY MR. SCOTTI:

10 Q Do you recall back in May of 2014 when the
11 Village of Elwood instituted an ordinance which
12 prevented truck traffic from coming in off of Walter
13 Strawn Drive and going to your facility?

14 JUDGE KIRKLAND-MONTAQUE: Okay. I want to hear
15 what your point --

16 MR. SCOTTI: The next question is, "When that
17 was occurring, did you notice any safety issues from
18 traffic trying to find alternate routes to your
19 facility?"

20 In other words, we're going to
21 establish that when Walter Strawn Drive is closed,
22 that it created other traffic safety issues in the

1 region.

2 MS. ANDERSON: Your Honor, I have an objection
3 at this point. If you want to talk with him further,
4 I can hold it until later.

5 JUDGE KIRKLAND-MONTAQUE: Is your objection
6 regarding this question?

7 MS. ANDERSON: Yeah, my objection regarding
8 that question has to deal with relevance. He's
9 asking the witness to testify about -- not
10 specifically rail safety at the Walter Strawn Drive
11 crossing, the topic of this hearing, but safety
12 generally. It's a very open-ended. It's beyond the
13 scope. It's not what the witness testified on
14 direct. It's not why the witness was called.

15 There might be some rail
16 safety-specific question at the crossing that he has
17 for the witness and maybe I would be okay with that
18 one, but I think we're being distracted from the main
19 point and we're wasting time.

20 MR. SCOTTI: Your Honor, we are definitely not
21 wasting time. This is a safety issue.

22 MR. SCHMIDT: I'd like to join in that

1 objection. And, you know, unfortunately this is the
2 reason why we brought our motion prior to this
3 hearing, your Honor, because we're now going to start
4 to hearing witnesses being asked questions about
5 safety involving traffic at no locations related to
6 this crossing.

7 And as you specifically said when we
8 started this hearing today, that the evidence that is
9 going to be presented is related specifically to
10 public safety issues at the crossing. That's the
11 scope of the hearing today.

12 That question that was asked of this
13 witness has nothing to do with safety at this
14 crossing. He might want to make some specious
15 argument from some extraneous point of view that
16 traffic 4 miles away somehow affects safety at this
17 crossing, but that's not why we're here.

18 We're here to talk about the impact of
19 safety at this specific rail crossing. And this is
20 being done in contravention of the scope of this
21 hearing. This Phase 1 hearing was for one purpose
22 and one purpose only, and that was to discuss safety

1 at this rail crossing.

2 MR. SCOTTI: Your Honor, in response, that was
3 not the purpose of their motion. Their motion was
4 based on false accusations.

5 JUDGE KIRKLAND-MONTAQUE: I'm not going to get
6 into the motion.

7 MR. SCOTTI: My purpose of my question is, is
8 to simply show this Court that if you close this
9 traffic, there will be other safety implications as a
10 direct result of that. And I think that it needs to
11 know that when making a decision. That's all.

12 JUDGE KIRKLAND-MONTAQUE: I will allow you to
13 ask him a question. He did testify toward the
14 traffic in and out of the facility.

15 So the extent that your question has
16 to do with any diversion that they experience at some
17 point in time -- and I don't necessarily need the
18 reference -- I'll allow him to answer that.

19 MR. SCOTTI: Thank you, your Honor.

20 BY MR. SCOTTI:

21 Q After the ordinance was entered which
22 prevented trucks from entering your facility from the

1 Walter Strawn Road, did you make any observations
2 regarding changes in traffic patterns and safety?

3 A Yes.

4 Q What kind of observations did you make?

5 A I watched trucks choose routes that were
6 not legal to come into the facility.

7 Q Did you notice any traffic congestion that
8 appeared unsafe to you?

9 A I think it added to some of the congestion
10 on the alternate routes that they chose that created
11 possible safety issues.

12 MR. SCOTTI: That's all the questions I have.

13 JUDGE KIRKLAND-MONTAQUE: Okay. Any redirect,
14 Mr. Shumate?

15 MR. SHUMATE: No, no redirect.

16 JUDGE KIRKLAND-MONTAQUE: Jennifer, did you
17 have any --

18 MS. ANDERSON: Nothing for me.

19 CROSS-EXAMINATION

20 BY

21 MR. SCHMIDT:

22 Q Just to respond to that last -- last

1 question and answer when you're talking about some
2 safety, are you aware of any safety issues related
3 specifically to the Strawn Road crossing?

4 MR. SHUMATE: I'm going to object because I
5 want you to clarify when.

6 MR. SCHMIDT: In response to this ordinance.

7 MR. SHUMATE: Okay.

8 BY MR. SCHMIDT:

9 Q I want to know if you know of any incidents
10 involving safety at the Strawn Road crossing?

11 A Not that I'm aware of.

12 JUDGE KIRKLAND-MONTAQUE: Okay. Are you ready
13 to excuse the witness, Mr. Shumate?

14 MR. SHUMATE: That's it.

15 JUDGE KIRKLAND-MONTAQUE: I'm sorry. Did IDOT
16 have a question?

17 MR. PARRISH: (Nonverbal response.)

18 JUDGE KIRKLAND-MONTAQUE: Okay.

19 MR. SHUMATE: So at this time I'd like to offer
20 Union Pacific's Group Exhibit B, Pages 1 and 2, into
21 evidence.

22 JUDGE KIRKLAND-MONTAQUE: Any objection?

1 MR. SCOTTI: No objection.

2 MS. ANDERSON: No objection, your Honor.

3 MR. STREICHER: No objection.

4 MR. PARRISH: No objection.

5 JUDGE KIRKLAND-MONTAQUE: Okay. IDOT Group
6 Exhibit B is admitted -- I'm sorry. I said "IDOT," I
7 mean Union Pacific Group Exhibit B.

8 (Whereupon, Union Pacific's
9 Group Exhibit B was admitted
10 into evidence.)

11 MR. SCHMIDT: Just for the record, your Honor,
12 I'd like to make a motion to strike his testimony
13 because it's not relative to the safety issues at the
14 Strawn Road crossing, as he admitted. As he
15 testified to, he's not aware of anything relating to
16 a safety issue directly and specifically at the
17 Strawn Road crossing.

18 So everything else that he's testified
19 to with regards to safety issues is not relevant to
20 this Phase 1 hearing.

21 JUDGE KIRKLAND-MONTAQUE: I'm going to overrule
22 that objection. I will allow the testimony and I

1 will give it the appropriate weight it is deemed in
2 drafting my recommendation to the Commission.

3 MR. SHUMATE: My next one will be even faster
4 if you want to keep going.

5 JUDGE KIRKLAND-MONTAQUE: You know what, I need
6 to take a 5-minute break.

7 (Whereupon, a recess was taken.)

8 JUDGE KIRKLAND-MONTAQUE: Back on the record.

9 MR. SHUMATE: I'm sorry. I'd like to call
10 Curtis Cornwell.

11 CURTIS CORNWELL,
12 called as a witness herein, having been first duly
13 sworn, was examined and testified as follows:

14 DIRECT EXAMINATION

15 BY

16 MR. SHUMATE:

17 Q Is your microphone on?

18 A How about now?

19 Q No.

20 A Hello.

21 Q Yeah, there you go.

22 State your name for the record,

1 please.

2 A Curtis Cornwell.

3 Q Mr. Cornwell, will you spell your name,
4 please.

5 A Curtis, C-u-r-t-i-s, Cornwell,
6 C-o-r-n-w-e-l-l.

7 Q Mr. Cornwell, by whom are you currently
8 employed?

9 A Union Pacific Railroad.

10 Q How long have you worked for the Union
11 Pacific Railroad and/or its predecessor railroads?

12 A Approximately nine years.

13 Q Okay. Which department do you work at now?

14 A The engineering department, signals
15 specifically.

16 Q And what's your title?

17 A Manager of signal maintenance.

18 Q Are you familiar with the crossing which is
19 the subject of today's hearing?

20 A Yes.

21 Q Have you had an opportunity to visit it?

22 A Several times.

1 Q Okay. When was the last time you were
2 there?

3 A Approximately a month.

4 Q How does this crossing compare with other
5 crossings you have responsibility for from the
6 standpoint of signalization and gate damage?

7 A It far exceeds any gate damage than any
8 other crossing has.

9 Q Okay. What additional work have you
10 performed at this crossing because of gate incidents?

11 A We changed -- additionally changed gate
12 mechs out. We've had to replace gate mechs due to
13 the damage from the constant hits, constant gate
14 replacements, rehangs, ratchet wheels, spinning -- I
15 mean, when gates get hit and they spin around, that's
16 just extra maintenance.

17 Q Have you actually had to change out an
18 entire gate?

19 A Yes.

20 Q Normally how long do the gates last at a
21 normal crossing?

22 A Normally -- I mean, we have gates that are

1 30 years old in some places. They'll last as long as
2 they -- I would say on average 15 years --

3 Q Okay.

4 A -- to be safe.

5 Q And the gate you've replaced, do you know
6 approximately how old that was?

7 A Approximately five. I know that was the
8 third.

9 Q What form of gates do you currently have at
10 the crossing?

11 A Western-Cullen-Hayes mechanism.

12 Q And do they have a special device to
13 preserve the actual gate arm itself?

14 A They didn't until -- when we replaced the
15 last gate mech, we installed a gate saver
16 spring-loaded device additionally.

17 Q Repeat that, you said gate saver?

18 A Gate saver.

19 Q And explain what a gate saver is, please.

20 A Instead of being a rigid mount for the gate
21 to sit on, it's spring loaded. And it's hinged so
22 when the gate does get hit, it's able to give and

1 return back to its normal position.

2 Q Do you know the date when you put on the
3 gate savers, approximate date?

4 A 4/11/2014.

5 Q So April 11th, 2014?

6 A Correct.

7 Q Is this crossing signal system at Walter
8 Strawn Road crossing, is it interconnecting with
9 traffic signals at Walter Strawn Drive and U.S.
10 Route 53?

11 A Yes, it is.

12 Q Can you describe what that interconnection
13 is and what its purpose is.

14 A The purpose of the interconnect is to
15 provide a green clear time for when we have a
16 traffic -- when our equipment predicts a train
17 movement, allows the crossing -- or the traffic
18 signals to go green to allow motor vehicles to exit
19 the gate -- or exit the crossing before we drop the
20 gates.

21 Q So is that what's been referred to in
22 today's hearing as a track clearance green?

1 A Correct.

2 Q Okay. Okay. If the railroad signal system
3 is working appropriately and the interconnection with
4 the traffic signal system is working properly and the
5 clearing green process is working as designed, if the
6 funeral procession enters the intersection, can that
7 negate the effectiveness of the clearing green
8 operation?

9 A Yes.

10 Q Okay. Now, can you also negate the
11 clearing green operation if you have what I've
12 referred to as an elephant convoy of trucks coming
13 north on Route 53 and making a left-hand turn onto
14 Walter Strawn Drive and then a train comes?

15 A We're going to provide the same input to
16 the traffic signals. Our crossings are going to
17 operate the same way --

18 Q Okay.

19 A -- it's just whether or not there's an
20 available route for a crossing -- or for motor
21 vehicles to exit the crossing.

22 Q Okay. Are you familiar with the presignal

1 on the west side of the tracks at the crossing?

2 A Yes.

3 Q Okay. In your opinion, should any
4 modification be made to that presignal and/or stop
5 bar to make it more effective with regard to gate
6 hits?

7 A I think it should be moved back.

8 Q What do you mean by that?

9 A I think the stop bar should be moved more
10 in advance of the crossing. Where it is now, we
11 don't -- there's not a lot of distance between where
12 we're wanting vehicles to stop and where the crossing
13 is, where our gate mech is. So if they don't obey
14 that stop bar or stop signal, presignal, they're
15 almost right on top of the crossing.

16 Q Okay. So right now, the testimony has been
17 that the stop bar is 10 to 11 feet back; is that
18 correct?

19 A Approximately.

20 Q Okay. And if it was moved further back,
21 would that mean that the trucks would have a better
22 view of the traffic signals?

1 A I believe that they would be stopped far
2 enough in advance that they have more opportunity to
3 obey the prestop.

4 Q Okay. So when you say "obey the pre-" --

5 A Signal.

6 Q Signal. Okay.

7 What type of signal system is on this
8 crossing right now?

9 A It's a crossing prediction device. It's a
10 shunt -- a shunting system. We detect the shunt of a
11 train move.

12 Q And when you say "shunting system," does
13 that mean that the -- that the train's axles and
14 wheels activate the electrical current that a train
15 is coming and the signal box takes it over from that?

16 A That's correct. We detect the presence of
17 the train by the shunt of the axles.

18 Q Is there a radio signal on this railroad
19 grade crossing for the Amtrak trains?

20 A No.

21 Q Is -- are there plans for additional grade
22 crossing warning device modifications at this

1 crossing with regard to high-speed rail?

2 A Yes, there is.

3 Q And will it be four quad gates at this
4 crossing?

5 A Yes.

6 Q And will they have loop detectors for
7 vehicles?

8 A Yes.

9 Q Is there also a second track plan to go in
10 at this location?

11 A Yes, there is.

12 Q What will be the speed of the high-speed
13 rail trains at this railroad crossing when the
14 modifications are made for high-speed rail?

15 A Passenger trains will be 110; a freight
16 train will still be maximum timetable speed 60.

17 Q And what type of railroad -- I'll call it
18 advance warning signal system will be utilized by the
19 Amtrak trains when they're traveling at 115 --
20 110 miles an hour?

21 A It would be the ITCS detection -- or the
22 activation device. The same thing that we're using

1 on the existing high-speed corridor.

2 Q Is that a shunting system or a
3 radio-controlled system?

4 A ITCS is radio controlled.

5 Q Okay. Will the railroad signal system used
6 by Amtrak in the future perform any differently with
7 regard to interaction with funeral processions at
8 Route 53?

9 A No.

10 MR. SHUMATE: No further questions.

11 JUDGE KIRKLAND-MONTAQUE: Ms. Anderson.

12 MS. ANDERSON: Just a couple, your Honor.

13 CROSS-EXAMINATION

14 BY

15 MS. ANDERSON:

16 Q Mr. Cornwell, when you testified about the
17 timing of your last visit to the Strawn Road
18 crossing, was it one month prior to today's
19 administrative hearing?

20 A Approximately.

21 Q The four quad gates with loop detector
22 system that you testified would be installed under

1 the High-Speed Rail Program, that detection system
2 applies only to Amtrak trains, correct?

3 A No, that would apply -- a presence loop
4 detector will apply to any train move. It's -- when
5 you add the quad gates, you have to still be able to
6 clear the crossing.

7 So regardless, if it's an Amtrak move,
8 a freight train move, any train move, the loops will
9 still be active.

10 Q Is there any difference between the
11 detection at the crossing with the four quad gates
12 and loop detectors between a freight train and a
13 passenger train?

14 A The detection -- it's going to detect
15 the train -- the ITCS program is going to be -- it's
16 going to activate the crossing radio controlled. The
17 freight trains will activate the crossing just like
18 they do today. It will be the same exact system,
19 it's just the ITCS program will -- with
20 110-mile-an-hour trains, it's going to activate it
21 sooner. Obviously because the trains are moving
22 faster, it's got to detect that train move sooner.

1 Q So the ITCS radio detection system is only
2 for passenger trains?

3 A Correct -- only for passenger trains that
4 are equipped with the ITCS program on board.

5 Q If the stop bar is moved further back from
6 the tracks at this intersection, is that going to
7 take away the conflict between funeral processions
8 and the operation of the crossing?

9 A I don't believe so.

10 MS. ANDERSON: Your Honor, I have no further
11 questions.

12 JUDGE KIRKLAND-MONTAQUE: Mr. Streicher.

13 MR. SCHMIDT: No questions, your Honor.

14 MR. PARRISH: No questions.

15 JUDGE KIRKLAND-MONTAQUE: Mr. Scotti.

16 MR. POWERS: Your Honor, I will be doing the
17 questions for this witness and just a few.

18 CROSS-EXAMINATION

19 BY

20 MR. POWERS:

21 Q Mr. Cornwell, how many visits have you made
22 to the crossing at Walter Strawn Drive?

1 A I'd say in the past year, eight.

2 Q Of those eight visits, how many times did
3 you observe funeral processions on the road?

4 A Almost every -- almost every time I'm
5 there.

6 Q So how long were your visits on each of
7 these occasions, if you could estimate?

8 A It varies. Usually when I go there -- a
9 couple of visits were actually to oversee the work to
10 the resolution code and I was there for, you know,
11 two days straight. Others were to check on the
12 maintainer at that time and just, you know, a couple
13 hours here and there.

14 Q During your eight visits, some of which
15 sounds like were lengthy, did you observe any police
16 or patrol officers at the crossing?

17 A Yes.

18 Q And what was your observations about the
19 efficacy of those efforts, that is, having a
20 patrolman there?

21 A I saw them come up when the funeral
22 processions were going by and, you know, trying to

1 direct traffic. I don't -- my concern is not really
2 watching the road. I'm more concerned about how the
3 crossing is activated, but I think they helped from
4 before they were there.

5 Q Do you think that if there were a permanent
6 police presence or patrol presence at the crossing,
7 that that would make the crossing safer?

8 MR. SCHMIDT: Your Honor, I object to this.
9 Your Honor, there's no foundation for this. It's way
10 beyond the scope of the direct examination. I mean,
11 come on.

12 JUDGE KIRKLAND-MONTAQUE: I don't --

13 MR. POWERS: Your Honor, if I could respond. I
14 mean, he's testified that he has spent eight
15 substantial visits there and that he's in charge of
16 signal maintenance, so I think that he is competent
17 to testify to this.

18 MR. SHUMATE: No, he says he's in charge of
19 signal maintenance and he observed the police
20 officers there. He doesn't know what they're doing
21 at the traffic intersection. That's what the police
22 are working at, is at the traffic intersection, not

1 at the railroad grade crossing.

2 JUDGE KIRKLAND-MONTAQUE: I'm going to sustain
3 the objection.

4 MR. POWERS: Your Honor, may I clarify whether
5 the objection that you sustained went to any
6 questions regarding police presence at the crossing
7 or all --

8 JUDGE KIRKLAND-MONTAQUE: The specific
9 question --

10 MR. POWERS: -- of the questions?

11 JUDGE KIRKLAND-MONTAQUE: -- was regarding
12 whether he thought the police presence was effective.
13 And I don't think that he -- based on his testimony
14 or his background is qualified to say.

15 BY MR. POWERS:

16 Q Mr. Cornwell, are you qualified to speak to
17 any safety issues related to the crossing at Walter
18 Strawn Drive?

19 MR. SHUMATE: He has defined what the crossing
20 is. Which crossing are you talking about?

21 MR. POWERS: When I mention the crossing, I
22 mean the rail grade crossing at Walter Strawn Drive

1 and Illinois Route 53.

2 MR. SCHMIDT: And if I just might ask --

3 MR. SHUMATE: That doesn't answer the question.

4 There is a traffic intersection at Route 53 and
5 Walter Strawn Drive and there is also a railroad
6 intersection between the Union Pacific and Walter
7 Strawn Drive. He is a signal maintainer for the
8 railroad crossing.

9 JUDGE KIRKLAND-MONTAQUE: What is your question
10 again?

11 MR. POWERS: I'm wondering whether he is
12 competent to testify about any safety issues at the
13 railroad crossing at the Union Pacific Railroad track
14 at Walter Strawn Drive.

15 MR. SCHMIDT: I would just have to join in the
16 objection from Mr. Shumate. He's not here as a
17 railroad safety expert. He's here to testify as a
18 fact witness as being a manager of signal maintenance
19 and overseeing what signal maintainers do.

20 What does that have to do with safety
21 at the crossing for cars and trucks? Because that's
22 the question he's asking about. I mean --

1 JUDGE KIRKLAND-MONTAQUE: Hold on. Hold on.

2 I think the question's a bit broad
3 based on his -- what he testified his role is for the
4 company. So can you either ask another question or
5 make it more narrow?

6 MR. POWERS: Sure, your Honor.

7 BY MR. POWERS:

8 Q During the direct examination, you spoke
9 specifically to the presignal issue and the stop bar.
10 And specifically when you were asked about the stop
11 bar moving back, you had indicated that you thought
12 that would increase safety at the crossing because it
13 would provide more visibility. And I just wanted to
14 first confirm that that was your testimony.

15 A The -- in regards to the stop bar, it's --
16 I don't think safety -- what I'm concerned about with
17 the stop bar is eliminating broken gates as far as
18 the railroad crossing is concerned. I -- as far as
19 traffic safety, that's -- I can't speak to that.

20 I just think, you know, the issue that
21 I have is with all the broken gates. And if it was
22 further back -- the stop bar was further back, I

1 think there would be less potential for the gates to
2 get caught up in trucks that disobey that signal.
3 But as far as the intersection is concerned, I really
4 don't know. It's not really my issue.

5 Q Fair enough. Let's talk about the broken
6 gates.

7 Are there any other solutions that you
8 know of that would help prevent broken gates at that
9 crossing?

10 A The only solution that we tried as far as
11 signal maintenance was the gate saver and that's --
12 other than that, there's really nothing that we can
13 do.

14 Q And did the gate saver help in any way
15 prevent broken gates?

16 A It helped prevent broken gates -- and it
17 helped to prevent the gates from being broke, it
18 didn't help prevent the times that they got struck.

19 Q I understand. So it didn't get to the root
20 cause, is that what you're saying?

21 A No.

22 Q And can the IC- -- ITCS radio-control

1 system, is that capable of being attached to a
2 freight train or is that simply only capable of being
3 attached to a passenger train?

4 A As far as the computer programs, I'm not
5 sure. The only trains that the ITCS works with is
6 the trains equipped with the onboard equipment. And
7 right now it's only Amtrak. I don't know that
8 they've ever tried it with a freight train.

9 Q Could you conceive it may be possible to
10 equip a freight train with an ITCS tracking device?

11 MS. ANDERSON: Objection. Speculation.

12 JUDGE KIRKLAND-MONTAQUE: Sustained.

13 MR. POWERS: Thank you. No more questions.

14 JUDGE KIRKLAND-MONTAQUE: Mr. Shumate,
15 redirect?

16 MR. SHUMATE: No redirect, your Honor.

17 JUDGE KIRKLAND-MONTAQUE: Okay. Anything
18 further?

19 Okay. Did you -- you may excuse your
20 witness.

21 MR. SHUMATE: I'm sorry. I did not hear you.

22 JUDGE KIRKLAND-MONTAQUE: Your witness may be

1 excused if you're done.

2 MR. SHUMATE: Okay. You can go home.

3 I was going to call Richard Wazak, who
4 is our special agent, but there's been enough
5 testimony here today that acknowledges that the Union
6 Pacific has hired the Will County Sheriff's Office to
7 provide this service that they've been providing.

8 And if Mr. Wazak can come tomorrow,
9 then I'll -- I could put him on then, but right now
10 I'd like to just go to Janie Hollingsworth, our
11 traffic engineer.

12 JUDGE KIRKLAND-MONTAQUE: Okay. And, by the
13 way, I have requested the room. I haven't heard back
14 so I'll need to go and check that in a little bit to
15 see if I can actually hold another hearing tomorrow.

16 MR. SHUMATE: Okay.

17 JUDGE KIRKLAND-MONTAQUE: Go ahead. You can
18 proceed.

19

20

21

22

1 JANIE HOLLINGSWORTH,
2 called as a witness herein, having been first duly
3 sworn, was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY

6 MR. SHUMATE:

7 Q Janie, I'll remind you you're under oath.

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

10 A Janie Hollingsworth.

11 Q And would you spell that, please.

12 A Janie, J-a-n-i-e, Hollingsworth,
13 H-o-l-l-i-n-g-s-w-o-r-t-h.

14 Q Ms. Hollingsworth, by whom are you
15 employed?

16 A CTC, Inc.

17 Q And how long have you been with CTC, Inc.,
18 and/or its predecessors?

19 A A little over three and a half years.

20 Q And what's your prior work history?

21 A I worked for the City and County of Denver
22 for approximately 12 years.

1 Q What's your educational background?

2 A I have a Bachelor's of Science in Civil
3 Engineering with transportation focus.

4 Q And how many states are you licensed as a
5 professional engineer?

6 A 13.

7 Q Are you licensed in the state of Illinois?

8 A Yes.

9 Q Would you describe the type of projects you
10 do for CTC, Inc.

11 A We review railroad preemption, projects
12 that are -- railroad crossings that are tied in with
13 traffic signals.

14 Q Have you had an opportunity to visit the
15 crossing which is the subject of today's hearing?

16 A Yes.

17 Q Have you been able to make observations
18 through video cameras installed at the crossing?

19 A Yes.

20 Q Did you make the -- did your company
21 perform the installation or have a private contractor
22 do that?

1 A Our company installed.

2 Q Do you have some of those videos with you
3 today?

4 A Yes.

5 Q Based on the videos, have you been able to
6 prepare video models of various crossing functions at
7 the intersection of Walter Strawn Drive and
8 Route 53 --

9 A Yes.

10 Q -- and the tracks of Union Pacific
11 Railroad?

12 A Yes.

13 Q I now direct your attention to what's been
14 marked as Union Pacific Group Exhibit A, consisting
15 of 88 slides and a PowerPoint presentation.

16 Did you prepare these slides and the
17 presentation?

18 A I prepared them along with Staff at CTC
19 that I had direct supervision.

20 Q And does that include the videos and the
21 models that are also enclosed?

22 A Yes.

1 Q Included, I mean.

2 Let's walk through the presentation,
3 if you will.

4 So we're now looking at, for everybody
5 here, UP Group Exhibit A, which consists of 88
6 slides. You should have a paper version and then on
7 the projector here you'll be able to watch.

8 Okay. Janie, what's the purpose of
9 this presentation?

10 A The purpose of this presentation is to
11 present recommendations to the Illinois Commerce
12 Commission intended to address various operational
13 concerns that were previously expressed regarding the
14 safety of the highway-rail grade crossing on Walter
15 Strawn Drive with the Union Pacific Railroad in the
16 adjacent intersection of Walter Strawn Drive and
17 Illinois Highway 53 in Elwood, Illinois.

18 Q Have you divided this presentation up?

19 A Yes. If you take a look at the screen here
20 from the far side, Slide No. 3, the presentation is
21 divided into four sections to address immediate
22 recommendations to improve the safe operation of the

1 crossing.

2 The background of critical safety
3 observations: Option 1: Close crossing; Option 2:
4 Convert Walter Strawn Drive to one-way westbound; and
5 Option 3: Intersection operational improvements.

6 Q Now, with regard to Option 3, these would
7 be improvements if the crossing is neither closed nor
8 converted to one-way westbound; is that correct?

9 A That's correct.

10 Q Now, let's move to the first group,
11 background of critical safety observations.

12 A CTC, Inc., was retained by Union Pacific
13 Railroad Company to review the preemption operation
14 of Walter Strawn Drive Crossing DOT No. 922023D and
15 make recommendations for improvements.

16 In the course of this study, CTC
17 conducted numerous site visits and implemented
18 video-recording devices at the crossing.

19 Q Would you go over the video monitoring,
20 please.

21 A On July 18th, 2014, an X-link
22 video-recording device and video cameras were

1 installed to monitor vehicle and train movements at
2 the crossing in the intersection of Walter Strawn
3 Drive and Illinois 53.

4 If you take a look at the picture on
5 the left side, that is the railroad equipment house
6 that's located at the crossing. You'll see four
7 cameras located on top of the equipment house. The
8 X-link video receives input from the railroad. For
9 example, when lights begin to flash, when the gates
10 are horizontal, as well as when the train occupies
11 the crossing, and also when the preemption ends and
12 the gates are released.

13 From the period of July 18th through
14 September 11th, 2014, over 600 train events were
15 analyzed and it was actually a number of 671.

16 Q Okay. Can you provide us with an example
17 of the camera views for the four cameras.

18 A Yes. The example camera views -- if you
19 take a look at the images on the screen, on the top
20 left corner, you'll see the camera that is looking
21 directly east. You'll see the Railroad -- Union
22 Pacific Railroad tracks -- they're at the bottom of a

1 picture -- and you're looking towards the traffic
2 signal intersection where you can see the traffic
3 signal indications.

4 Q And what screen is that at?

5 A Illinois 53 runs parallel with the tracks.
6 Walter Strawn Drive is perpendicular.

7 Q Okay.

8 A On the top right-hand corner, the cam- --
9 the second camera is looking a little bit further
10 south at the intersection of Illinois 53 and Walter
11 Strawn Drive. Again, the parallel roadway is
12 Illinois 53 and the perpendicular is Walter Strawn.
13 And you'll see the traffic signal indications.
14 You'll also take note there's -- you can see the
15 northbound left-turn vehicles and as well as you'll
16 see the through lanes.

17 On the bottom left-hand corner, the
18 camera is looking directly south at the crossing and
19 the presignal.

20 On the bottom right-hand corner, the
21 camera is directed more west looking down Walter
22 Strawn Drive crossing. And I would like to show an

1 example of the videos.

2 Q Okay. Let's roll it.

3 (Whereupon, there was a video
4 played.)

5 THE WITNESS: As you see there, the lights are
6 flashing.

7 MR. SHUMATE: We should turn the lights off.

8 JUDGE KIRKLAND-MONTAQUE: They're down the
9 hall.

10 THE WITNESS: Yes, let's go ahead. I'll start
11 this over.

12 MR. SHUMATE: Okay. Thank you.

13 THE WITNESS: You see in the top and right
14 you'll start to see the railroad flashing lights
15 begin to activate. Based on the time of when this is
16 taken, the presignal at that point in time would be
17 red. The gate is descending on the top right.

18 And now you'll see there -- on the
19 bottom left-hand corner you're going to see where the
20 tractor-trailer had hit the gate.

21 BY MR. SHUMATE:

22 Q That's a familiar person who just walked

1 in.

2 A And this video was taken August 22nd,
3 actually when they incorporated the 9-second gate
4 delay.

5 Q Okay. So that gives an idea of what we're
6 able to do with the cameras.

7 So let's go to the critical safety
8 observations.

9 A Through the videos and on-site reviews,
10 we've identified critical safety observations:
11 Significant truck volume, gate hits and broken gates,
12 noncompliance of presignal by motorists, northbound
13 left turns toward crossing blocking intersection,
14 violation of right-turn prohibition sign, conflicting
15 traffic signal indications, limited visibility of
16 railroad flashing lights and funeral processions.

17 Q Let's go to the first category,
18 "Significant Truck Volume," please.

19 A The image that you see here is looking
20 eastbound on Walter Strawn drive. Due to the vehicle
21 lengths and operating characteristics, a
22 tractor-trailer requires more time to clear the

1 crossing than a passenger vehicle. Exposure over the
2 crossing is much greater. The height of the
3 tractor-trailer also increases the potential for a
4 gate hit.

5 Q Now, this is Slide No. 10, which is
6 entitled "Gate Hits."

7 What is this?

8 A This is the gate hits that have occurred
9 from July 18th to August 21st, 2014. Two gate hits
10 from observed. Gate delay time was approximately
11 4 seconds. From August 22nd to September 11th, 2014,
12 nine gate hits were observed. Gate delay time was
13 approximately 9 seconds.

14 So you can see from the table, you'll
15 have -- on the left side of the table is the date
16 those occurred, the direction of travel, you'll see
17 all of the gate hits that we had observed were
18 eastbound with the exception of one on -- that was
19 westbound on September 8th.

20 You also note the time of day that
21 these incidents occurred. And you can see that
22 they're varying throughout the day. Funeral

1 processions were not a factor in the observed gate
2 hits.

3 You'll see a dividing line on the
4 table where the 4-second gate delay was implemented
5 and then the 9-second gate delay was.

6 Q Okay. So do you have a video that shows an
7 example of a gate hit approximately with the 4-second
8 gate delay?

9 A Yes. I'll run the video and then we can
10 stop it.

11 Q Let me ask a question, on -- when we say
12 "4-second gate delay," what does that mean?

13 A A 4-second gate delay is the time that the
14 railroad lights begin to flash until the gate
15 descends. So it takes approximately, the way this
16 was set up, almost 4 seconds for that to occur.

17 Q So, if I understand you correctly, the
18 railroad signal would be flashing, that's the red
19 flashers, for approximately 4 seconds before the gate
20 would start to deploy downward?

21 A That's correct.

22 Q Okay. Let's see the video, please.

1 A We'll watch the video entirely and then
2 I'll stop it at key points on review. Go back and
3 we'll review it and talk a little bit about what
4 happened.

5 Q Explain to everyone here what actually
6 happened with the clearing green and also the
7 presignal and what the truck did.

8 A So as we -- well, we reviewed through the
9 video, but what we're looking at is the presignal,
10 which is the first part where the green light is
11 shown there. The display is red and the downstream
12 intersection signal is on the far side. So the
13 traffic signal will transition to green.

14 At this point, we're not in railroad
15 preemption at this point in time. This is just a
16 normal cycle of the traffic signal. So it just
17 turned green.

18 Now, you see there are flashing lights
19 that have begun, the presignal turns yellow, the
20 downstream will remain green for the track clearance
21 green portion.

22 It's a little sensitive there so we'll

1 go back to the...

2 It's flashing gates descent. The
3 tractor-trailer proceeded forward. The gate hit the
4 truck.

5 Q Okay. Now, let's -- do you have a model of
6 this?

7 A Yes. What we did is we graphically
8 simulated what occurred so you can see the whole
9 entire roadway picture of what's happening and we've
10 modeled it similar to what happened in the previous
11 video clip.

12 Q Let's run this now.

13 Can you explain what's going on as we
14 go.

15 A Yep. Right now we're going to turn green
16 on Walter Strawn Drive and Illinois 53 is in red, so
17 exactly what happened in the previous video. The
18 railroad lights have begun to flash. The presignal
19 has turned yellow.

20 At this point in time, the no
21 right-turn restriction signs are activated. Gates
22 are descending, tracks are -- the tractor-trailer

1 gets hit, as you can see the red on to the
2 tractor-trailer.

3 Q All right. Let's go up to the next slide,
4 which is an example of a gate hit approximately with
5 a 9-second gate delay.

6 A Yes. This incident occurred on
7 September 4, 2014. I'll go ahead and play the video
8 and then we'll stop it periodically after that; but a
9 couple things to take a look at is on the left part
10 of this screen, again, that's the intersection of
11 Walter Strawn Drive and Illinois 53. You'll see the
12 traffic signal turn to green. You'll see on the
13 right-hand side, that's looking directly south at the
14 presignal.

15 (Whereupon, there was a video
16 played.)

17 THE WITNESS: Do you see the flashing lights
18 have activated? The presignal should be red. The
19 gates begin descent and the gate hits the vehicle.

20 BY MR. SHUMATE:

21 Q So on this particular video, the truck that
22 was at the presignal when the lights were flashing,

1 that meant the presignal was either in yellow or in
2 red, correct?

3 A At the time of this, the presignal would be
4 red.

5 Q Okay. And then when the truck proceeded
6 then through the crossing, it was violating the red
7 light, which was a traffic signal; is that correct?

8 A That is correct.

9 We'll watch this again and go through
10 this one more time. The lights are flashing red,
11 they're on the left side.

12 Q And the truck would see the track clearance
13 green on Walter Strawn Road; is that correct -- I
14 mean, on Route 53; is that correct?

15 A You see the downstream traffic signal would
16 be green at this point in time. The presignal would
17 be red.

18 The truck starts in motion. So within
19 just a few seconds of the track clearance green, he
20 has moved past the stop line and the presignal. The
21 gates are descending and the gate hits the truck.

22 Q Okay. Do you have a model of that?

1 A Yes. So in -- as the start of this model,
2 the simulation, we have Illinois 53 in green. When
3 you take a look at the top right-hand corner, we have
4 the seconds until train arrival. So it's
5 approximately 45 seconds.

6 At the start of this video, there's no
7 train and the traffic signal is in normal operation.

8 Q For purposes of the record, this is
9 Page 14; is that correct?

10 A Yes.

11 Again, Illinois 53 is green. We have
12 the -- Illinois 53 goes to yellow. We have -- also a
13 turn restriction sign set up and activated and the
14 flashing lights have also been activated.

15 Now, we're in a track clearance green
16 phase. You'll see that the intersection signal for
17 eastbound Walter Strawn is green. The presignal will
18 be red and will remain red. The tractor-trailer
19 moves and is struck by the gate.

20 Q Okay. Let's go on to Slide 15 now,
21 "Noncompliance of Presignal by Motorists."

22 A During train events, numerous motorists

1 fail to comply with the presignal indications and
2 enter the crossing while the gates descend. And if
3 you look at the image there to the left, we have the
4 presignal indications. And then downstream at the
5 intersection of Walter Strawn and Illinois 53 are the
6 downstream signal indications.

7 When we analyzed the 671 events, one
8 of the things that we took a look at was if we have
9 vehicles that were present going eastbound on Walter
10 Strawn, how many times would they vi- -- how many
11 would violate the presignal? And going through that
12 analysis, almost 25 percent of those vehicles
13 violated the red presignal indication and proceeded
14 into the crossing while the gates were descending.

15 Q That's an important number. That's
16 25 percent or one quarter of all the trucks?

17 A That's correct. During the train events,
18 25 percent violated the presignal.

19 Q And the train event means that the railroad
20 signals were activated and that a train was coming?

21 A Yes.

22 Q Okay. Now, we're going to take a look

1 at -- all right. Keep going, please.

2 A Slide 16 on the noncompliance of presignal
3 by motorists. While one theory may be that motorists
4 drive aggressively in attempt to beat an approaching
5 train, video data suggests otherwise. Video data
6 suggests that numerous motorists begin movement
7 across the track when the downstream track clearance
8 green indication is displayed.

9 Here is an example of a noncompliance
10 of a presignal during a train event resulting that a
11 gate hit. This occurred September 10th, 2014.

12 Q For the purposes of this record, is this
13 Slide 17?

14 A Yes.

15 Again, we'll proceed forward with a
16 video and then I'll stop it at key points afterwards.

17 The railroad lights have activated.
18 You see the track clearance green. The
19 tractor-trailer moves towards the crossing and is
20 struck by the gate.

21 Do you want me to go to the next one?

22 Q Any more you want to say on it?

1 A That's fine.

2 Q Okay. Let's go to the next slide, this is
3 Slide 18 of Union Pacific Group Exhibit A, northbound
4 left turn toward crossing blocking intersection.

5 A This is another safety critical observation
6 that we had observed as part of the video analysis.
7 We had a northbound left turn toward the crossing
8 which blocked. 12 incidents where a northbound left
9 turn blocked the intersection during the period of
10 July 18th to September 11th, 2014.

11 You'll see the table -- on the left
12 side of the table is the date it occurred and then
13 the time.

14 The next slide provides an example of
15 a northbound left turn toward the crossing blocking
16 the intersection.

17 Q For purposes of the record, this is
18 Slide 19.

19 A The left turn is proceeding towards the
20 crossing.

21 A The flashing lights have activated. The
22 gate's descending and we're in a track clearance

1 green movement at this point in time.

2 Q Okay. I'd like you to stop the video
3 there, if you would, please.

4 We talked earlier about when it's not
5 a funeral procession and you have a track clearance
6 green, which exists at this time, and whether or not
7 a truck that is going in an easterly direction across
8 that crossing with a track clearance green can make a
9 left-hand turn onto Route 53.

10 Can that be blocked if you have a
11 situation like this?

12 A Absolutely. The tractor-trailer unit is
13 blocking the intersection. So a vehicle that's
14 traveling eastbound that would like to make a left
15 turn may not be able to do so to get around it and
16 would maybe block the track clearance green movement.

17 Furthermore, for motorists in general,
18 after the track clearance green phase, it will go
19 green on Illinois 53. So Illinois 53 would also be
20 blocked as well.

21 Q Okay. I direct your attention to Slide 20
22 of Union Pacific Group Exhibit A.

1 You have a model of this which may
2 demonstrate the blocking of the crossing; is that
3 correct?

4 A Yes, I do.

5 Q Can you show that, please.

6 A Yes. So where we start the video, we're
7 40 seconds until train arrival. At this point in
8 time, the train has not been detected and the traffic
9 signal is operating a normal operation. What's
10 occurring here is that we have a northbound left-turn
11 green at the start of this video.

12 (Whereupon, there was a video
13 played.)

14 THE WITNESS: You have tractor-trailers
15 traveling northbound on Illinois 53 going to make a
16 left turn. The first one enters on a green. The
17 second one enters on the last bit of yellow.

18 At this point in time, the lights have
19 begun to flash, are flashing and gates are
20 descending. So if the tractor-trailers begin
21 movement towards the intersection on track clearance
22 green wanting to make a left turn, this could block

1 that movement. If there was another vehicle behind
2 him, it could potentially block the track.

3 Q So if you could hold the video right there?

4 A Pardon me?

5 Q Okay. Hold it right there for a second. A
6 question for you, so we had the one truck on the
7 south side of Walter Strawn Road heading east, it had
8 track clearance green -- and right now on the video
9 it shows yellow -- but if there had been another
10 truck behind it and it seen the green signal, the
11 track clearance green, it could possibly be following
12 that truck and there would be no way that they
13 could -- it could get off the track; is that correct?

14 A That's correct.

15 Q Especially if there's vehicles in the other
16 lane --

17 A That is correct.

18 Q -- further south?

19 So this is an example with the current
20 preemption that we have, which I'm going to ask you a
21 question, this is simultaneous preemption, correct?

22 A That is correct.

1 Q Could this situation potentially be
2 rectified with advance preemption?

3 A Yes.

4 Q And we'll talk about that later?

5 A Yes.

6 Q Okay. Let's go on to the next slide,
7 Slide 21, Right-Turn Prohibition Sign Violations.

8 A One of the other critical observations that
9 we made was the right-turn prohibition sign
10 violation. This is looking southbound on Illinois
11 53.

12 And you'll see the near side and far
13 side traffic signals on that right-turn lane, they
14 will have a green, yellow or red arrow. And then you
15 will also see the display of the near side and far
16 side right-turn prohibition signs. These are
17 blank-out signs that will be activated when a train
18 is detected.

19 Q When you say "blank-out sign," what does
20 that mean?

21 A The blank-out sign is only activated
22 once the -- as the train is detected and notification

1 is sent to the track signal controller, the sign will
2 be activated and it will illuminate showing a "no
3 right turn" sign.

4 Q So if I'm driving south on Route 53 and no
5 train is coming, all that would be is just a black --
6 or a gray box?

7 A Correct.

8 Q But when a train comes, then it gets
9 activated?

10 A Yes, within approximately 1 second, it will
11 be activated after the lights and flash- -- lights
12 and gates begin to flash.

13 Q And this is what's at the intersection
14 currently, correct?

15 A Yes.

16 Q Okay. Let's go on to the next slide,
17 Slide 22, Right-Turn Prohibition Sign Violations.

18 A There were numerous right-hand --
19 right-turn prohibition sign violations that were
20 observed. Again, we looked at 671 train events.
21 During that train event, we saw over a hundred of
22 those where a right-turn prohibition sign was

1 violated.

2 The other issue is, if railroad
3 preemption is activated while a southbound green
4 arrow is displayed, then the right-turn prohibition
5 blank-out sign illuminates while a green arrow or a
6 yellow arrow are displayed resulting in a conflicting
7 message to motorists.

8 Q And do you have a video that shows the
9 conflict?

10 A Yes. The next slide.

11 Q Okay. So that's Slide 23, correct?

12 A Yes.

13 Q Would you read the title of that slide,
14 please.

15 A It's an example of right-turn prohibition
16 sign activation with green arrow. The video is
17 looking south towards the intersection of Walter
18 Strawn Drive and Illinois 53. To the right where the
19 tractor-trailer is, that is Walter Strawn.

20 At the start of this video, the
21 southbound green is being displayed along with the
22 right-turn arrow.

1 Q It's hard to see on this slide, but it
2 looks like there's two green dots, but you're saying
3 the one to the right is an arrow?

4 A That is correct.

5 Q Okay. Can you run the video? Oh, it's
6 running.

7 A You see now we have Illinois 53 has turned
8 yellow and the right-turn arrow is displayed. The
9 tractor-trailer from Walter Strawn moves forward.

10 Q And that's with track clearance green? I'm
11 asking.

12 A It would be -- it would be in track
13 clearance green at this point. At the time that the
14 tractor-trailer started, it would not be -- and --
15 I'm sorry -- no, it is not in track clearance green
16 at this point in time.

17 Q Okay.

18 A I apologize for that.

19 It will transfer over to track
20 clearance green. It's about a one second and we have
21 a right-of-way transfer, then we have to get the
22 arrow to the yellow and then red and then we'll go to

1 a track clearance green, so we have the right-of-way
2 transfer time that is occurring at this point in
3 time.

4 But what I wanted to point out here is
5 when we have preemption that occurs, there is a
6 possibility that you can have the green arrow and a
7 no right turn restriction displayed at the same time.
8 And that's confusing to motorists. So here they
9 drive up, they've got a green arrow as well as a no
10 right turn, what is the motorists supposed to do?

11 Q So the way it's configured right now, if
12 you're in the right-hand lane, you have at the same
13 time a green arrow saying you could go right and then
14 that blank-out sign, which says you're not supposed
15 to go right?

16 A That's correct.

17 Q And it's illuminated. So it's in direct
18 conflict; is that correct?

19 A That's correct.

20 Q All right. Go on.

21 A I keep moving this video along just so you
22 could see. We go to yellow and you could see the

1 tractor-trailer -- the gate hits the tractor-trailer
2 and it did break.

3 Q All right. Now, I'd like to direct your
4 attention to Slide No. 24. Would you read the title
5 of that slide.

6 A Yes. This is an example of a right-turn
7 prohibition sign. As I discussed previously, once
8 the railroad flashing lights are activated
9 approximately around the 1 second, the no right-turn
10 restriction sign would be displayed.

11 Q Can you show that video, please.

12 (Whereupon, there was a video
13 played.)

14 THE WITNESS: We are green right now on
15 Illinois 53. Flashing -- the railroad flashing
16 lights have been activated. This turn prohibition
17 should be on. You see this tractor-trailer violated
18 the turn restriction sign as well as the second
19 trailer.

20 So, again, we had over a hundred of
21 those out of 671 that were observed.

22

1 BY MR. SHUMATE:

2 Q I'd like to direct your attention to
3 Slide No. 25.

4 A Which is the conflicting traffic signals.
5 This view is looking eastbound Walter Strawn Drive
6 towards Illinois 53. You'll see the presignal
7 indications are in red. The red arrow and then the
8 red through with a through right lane.

9 Q So for purposes of the record, how many
10 presignal signs are there -- or signals?

11 A There's four.

12 Q The left-hand side, two on the cantilever
13 above and one on the right-hand side?

14 A Yes.

15 Q Okay.

16 A And the downstream green indications, which
17 are at the intersection, they're displaying a green.

18 So this is what drivers see routinely
19 on -- as they move eastbound towards the
20 intersection, that you could see conflicting
21 indications.

22 You also notice here the railroad

1 flashing lights are obstructed with the signs.

2 Q Okay. Let's move on to Slide No. 26.

3 A "Limited Visibility of Railroad Flashing
4 Lights."

5 So you can see in the left-hand
6 picture, this is a tractor-trailer going westbound on
7 Walter Strawn Drive that obscures the back lights.
8 And on the right side of the picture, you can see as
9 you're driving down the right lane that the railroad
10 flashing light's obscured by the signs.

11 Q Now, let's go to Slide No. 27.

12 A Is the funeral processions. The current
13 operation when funeral processions approaches, Will
14 County patrol car posted at roadway intersection
15 takes action to stop eastbound vehicles prior to the
16 highway-rail grade crossing. We observed excessive
17 traffic cues on Walter Strawn Drive were observed for
18 approximately 20 minutes after the July 29th, 2014
19 funeral procession.

20 Out of the 671 train events, we had
21 observed four funeral processions that occurred
22 within a 2-minute time frame of the train event.

1 Q I'd like to now go to Slide 28.

2 A This is an example of a funeral procession
3 with a law enforcement officer. I'll describe this a
4 little bit.

5 So here's our example, camera views,
6 all four views so you can get the entire display.
7 What I want you to pay close attention to is on the
8 top right is the police patrol car that's moving
9 towards the crossing.

10 Q Now, can you describe what would make the
11 police car activate like this. What's happened?

12 A They have been instructed that if a funeral
13 procession is arriving, he will receive notification
14 that a funeral procession is on their way. And so
15 the police car will -- the police patrol is directed
16 to essentially make sure that the traffic stays on
17 the west side of the crossing.

18 So for this example, the police car
19 actually pulls in front of the stop line, kind of
20 almost right by the presignal, to block the traffic
21 going eastbound to ensure that we do not have an
22 issue where the traffic is backing up over the

1 crossing.

2 Of the observations that we've seen,
3 we've seen different ways that the police officers
4 will block the traffic. One is this one, but we've
5 also seen them where they've pulled the car to the
6 other side of the track or we've also seen them where
7 they were just at the intersection.

8 But you'll see right now the police
9 officer has gotten out of the patrol car and is
10 walking towards the intersection.

11 And this video is pretty long, so I'm
12 going to fast-forward it to different spots in the
13 video to kind of point out some items. So we have a
14 hearse that's moved forward through the intersection.
15 I'm sorry. That was not -- it was just a regular
16 car. The police officer's at the intersection at
17 this point.

18 Now you'll see this is about 5 minutes
19 into the video as the hearse is going through the
20 intersection going southbound. I want you to take a
21 look at westbound Walter Strawn, which is on the
22 bottom right where you can see the tractor-trailers,

1 the queue of traffic that's building.

2 So you can see the funeral procession
3 is proceeding forward and the officer is directing
4 him through the intersection. The funeral procession
5 is completed and the officer is returning back to the
6 vehicle.

7 This is almost 11 minutes after the
8 start of this video and you can see still the traffic
9 is congestion for eastbound Walter Strawn Drive.
10 Again, this took almost 20 minutes for the traffic to
11 clear going eastbound.

12 During that time, there was a train
13 event that had occurred. On Slide 29 is an example
14 of a funeral procession without law enforcement
15 officer presence. We have already seen this video
16 previously. We can display it again.

17 Q When you say we've seen this previously,
18 who showed this video?

19 A Mr. Vercruysse.

20 Q Thank you.

21 A You see the tractor-trailer is in red --
22 transitioned to red. There was the hearse going

1 through the intersection. The funeral procession is
2 still going through the intersection. Walter Strawn
3 Drive has a green indication. The tractor-trailer is
4 proceeding forward to the intersection now; but had
5 that funeral procession extended longer, you could
6 have very well seen the tractor-trailer and other
7 vehicles blocking the crossing.

8 Q I now direct your attention to Slide 30,
9 please.

10 A As a result of the observations, the
11 preferred recommendation to ensure the safety of the
12 crossing is to implement Option 1: Close Walter
13 Strawn Drive to both eastbound and westbound
14 vehicular traffic at the highway-rail grade crossing.
15 Vehicles will still have unrestricted access to all
16 industrial areas west of the grade crossing via
17 Interstate Highway 55.

18 Q Slide 31, please.

19 A If it is determined Option 1 is not viable,
20 then it's recommended that Option 2 be implemented.
21 Close Walter Strawn Drive to eastbound vehicular
22 traffic one-way westbound only. Vehicles will be

1 able to enter the industrial areas east of the grade
2 crossing, but would be required to exit via
3 Interstate Highway 55 to the west.

4 Q The next slide, please.

5 A What you'll see here is Option 2 is to
6 convert Walter Strawn Drive to westbound only. It's
7 an aerial photograph and what we essentially did was
8 to show that it's a one-way only, so no traffic would
9 be able to go eastbound from the left of the screen
10 there. They would not be able to proceed to go
11 eastbound towards the intersection.

12 Q So let's look at Option 2, with what is
13 currently adopted in the state of Illinois, which is
14 referred to as simultaneous preemption. Would you
15 walk us through that, please.

16 A Yeah. So this is, again, simultaneous
17 preemption operation. On the top right you'll see
18 the seconds until train arrival is 45. Again, there
19 is no train event. The traffic signal is operating
20 normally. We have the northbound Illinois 53 and the
21 northbound left-turn arrow and the through green
22 movement at the time of --

1 Q For purposes of the record, this is
2 Slide 33; is that correct?

3 A Yes.

4 Q And this is the simultaneous preemption,
5 which currently exists at the crossing, correct?

6 A Correct.

7 So you can see the tractor-trailers
8 moving towards the intersection northbound making a
9 left-hand turn. At this point in time, the lights
10 and gates have activated and we have the turn
11 restriction signs in. So a train has been detected.

12 Northbound Illinois 53 goes to a
13 yellow and then it will go to a red. Again, the
14 lights are flashing and the gates will begin their
15 descent. We have the same issue that we've seen
16 previously when we had eastbound and westbound open,
17 is the left turning vehicles blocking the
18 intersection.

19 Even though we don't have a track
20 clearance green movement, we still block the
21 southbound Illinois 53 traffic, which could be a
22 hazard at the intersection.

1 Q Let's go to the next slide, Slide 34.

2 A Walter Strawn Drive one-way westbound. In
3 order to prevent the left turning vehicles from
4 blocking the intersection, advance preemption
5 operation must be incorporated. This would allow the
6 traffic signal to transition and allow the
7 tractor-trailers to proceed for -- passed the
8 flashing lights so they would not block the
9 intersection. At this point in time, the state of
10 Illinois does not utilize the advance preemption
11 operation.

12 Q To your knowledge, do the other states in
13 the United States of America use or accept advance
14 preemption?

15 A Yeah, the states that we work with Union
16 Pacific Railroad, they utilize the advance
17 preemption. The other states do. Illinois does not
18 utilize.

19 Q Are there recognized problems with advance
20 preemption in very densely populated areas where you
21 have crossings -- fully signalized crossings that are
22 very close to each other, like in commuter territory,

1 such as Union Pacific has in the collar county area
2 and the Chicago area?

3 A Advance preemption we have close crossings
4 in proximity. There could be complications to that.
5 There are some technological advances that have been
6 developed to help improve that operation, but there
7 are locations that advance preemption may not be
8 advisable.

9 Q At this Walter Strawn Road crossing, is it
10 possible to have advance preemption work at this
11 location in your estimation?

12 A I believe so. That would take a policy
13 decision from the Illinois --

14 Q Let me rephrase it. From an engineering
15 standpoint, would it be able to work at this
16 intersection?

17 A Yes.

18 Q But it would take a policy change on the --
19 from the standpoint of the Illinois Commerce
20 Commission; is that correct?

21 A That's correct.

22 Q Okay. So you have another video. And this

1 is Slide 35?

2 A Yes. This is the Walter Strawn Drive
3 one-way westbound with advance preemption. As you'll
4 see in the top right-hand corner we have a
5 55 seconds. Again, no train. Normal operation.
6 And, again, the same simulation as we showed as
7 simultaneous. We have the green northbound, the
8 green arrow as well as the through movement.

9 Q Let me stop you for a second.

10 Would you go back two slides to
11 Slide 33.

12 So the timing on the simultaneous
13 preemption is a 45 second, correct?

14 A That is correct.

15 Q And so if you go to the next slide -- I
16 mean, two more slides, the advance preemption, the
17 timing is 55 seconds; is that correct?

18 A That is correct.

19 Q So does that mean that the starts for the
20 actual signal system have to go out a little bit
21 further?

22 A That is correct.

1 Q And that's why you have the extra time?

2 A That is correct.

3 Q Okay. Run the presentation, please.

4 A Again, the tractor-trailer is traveling
5 northbound on the left green arrow. It goes --
6 transitions to yellow. We're in advance preemption
7 at this point in time with the turn restriction signs
8 that have also illuminated. Again, the intent of
9 advance preemption would allow those vehicles that
10 were turning left to be able to clear the
11 intersection and just clear passed the gate before
12 the gate begins their descent. The railroad lights
13 are flashing and now the gate descends.

14 Q With advance preemption, from a layman's
15 standpoint, does it mean that the traffic signals
16 know that a train is coming before the railroad
17 signals are activated?

18 A Correct.

19 Q Thank you.

20 Now, let's go on to Slide 36.

21 A Again, Option 2, Walter Strawn Drive
22 one-way westbound. Additional recommendations: We

1 would recommend right-turn prohibition blank-out
2 signs to be in a more visible location. We'd also
3 recommend adding the train message to signs to
4 provide additional information to the motorists as to
5 why that restriction is in place.

6 Q The next slide, No. 37.

7 A Continuation of Option 2, Walter Strawn
8 Drive, one-way westbound -- these are additional
9 recommendations -- install guide signs for motorists,
10 review traffic impacts to determine if additional
11 mitigation efforts are needed to minimize vehicle
12 delays in surrounding areas.

13 Q Now, directing your attention to Slide 38.

14 A If Option 1 and 2 are not viable, then it
15 is recommended that Option 3 be implemented.
16 Incorporate immediate modifications to improve the
17 safety of the crossing. Relocate stop line and
18 presignal, install visibility limited signal
19 indications at downstream intersection for eastbound
20 motorists, incorporate advance preemption operation,
21 install an additional right-turn prohibition sign in
22 a more visible location and add train message to all

1 signs, add additional railroad flashing lights and
2 modify traffic signal sequence.

3 Q Okay. Let me stop you now for a minute.

4 MR. SHUMATE: Your Honor, this would be a good
5 place to break for us on our presentation in order to
6 allow Mr. Streicher to have the -- his witness
7 testify that needs to go to Florida.

8 And you're --

9 THE COURT: And then --

10 MR. SHUMATE: And we'll finish ours either
11 later today or tomorrow and then go into cross on it,
12 if that's acceptable to everybody, or we can continue
13 on.

14 MR. STREICHER: I appreciate Mr. Shumate's
15 courtesy and we would like to do that.

16 JUDGE KIRKLAND-MONTAQUE: Okay. All right.
17 Can we get the lights back on, please.

18 And let me just check to see if the
19 room's available tomorrow.

20 (Whereupon, a recess was taken.)

21 JUDGE KIRKLAND-MONTAQUE: Okay. Okay. Are we
22 ready?

1 We can have the room from 11:00 to
2 1:00 tomorrow. I think this will probably be our
3 last witness we're able to get in today, including --
4 because he won't be able to return; is that correct?

5 MR. STREICHER: That's correct, Judge.

6 JUDGE KIRKLAND-MONTAQUE: So hopefully we'll
7 get through our cross -- our direct and cross and
8 tomorrow we're available from 11:00 to 1:00. So we
9 can fill those 2 hours in and then see what we need
10 to do at that point.

11 Is that a problem for anybody?

12 MR. SHUMATE: Our -- we'll take another
13 20 minutes to go through the last of the slides.
14 They go a little faster now.

15 JUDGE KIRKLAND-MONTAQUE: Okay. But I don't
16 think we'll be able to do that today.

17 MR. SHUMATE: Okay. I'm just saying.

18 JUDGE KIRKLAND-MONTAQUE: In general. All
19 right.

20 MR. SCOTTI: Could we have another date next
21 week possibly? Because we have some witnesses.
22 We're trying to schedule some out-of-town people.

1 JUDGE KIRKLAND-MONTAQUE: Okay. Next week I'm
2 available Wednesday from -- Mr. Streicher, is that
3 T14-0125 your case?

4 MR. STREICHER: Yes.

5 JUDGE KIRKLAND-MONTAQUE: And I don't -- do you
6 have an idea, would that be a longer case? You've
7 been at several of our hearings before.

8 MR. STREICHER: My hope is that we're going to
9 have stipulations from all the parties. And
10 Mr. Oliver yesterday advised he was going to begin
11 working on an order.

12 THE COURT: Okay.

13 MR. STREICHER: So my guess is --

14 THE COURT: An hour?

15 MR. STREICHER: -- it would be in the 1-hour
16 range.

17 JUDGE KIRKLAND-MONTAQUE: So that would mean on
18 Wednesday the 5th we could start at 11:00. I'm
19 available all day the 6th and the 7th.

20 MS. ANDERSON: Your Honor, Staff is also
21 available on --

22

1 (Whereupon, a discussion was had
2 off the record.)

3 JUDGE KIRKLAND-MONTAQUE: All right. Please
4 raise your right hand.

5 (Witness sworn.)

6 JUDGE KIRKLAND-MONTAQUE: Okay. You may be
7 seated.

8 And you may proceed, Mr. Streicher.

9 MR. STREICHER: Thank you, your Honor, and
10 thank you, Mr. Shumate, for giving us the courtesy of
11 taking this witness out of order.

12 FRED HAYES,
13 called as a witness herein, having been first duly
14 sworn, was examined and testified as follows:

15 DIRECT EXAMINATION

16 BY

17 MR. STREICHER:

18 Q Sir, would you please tell the Court your
19 full name, spelling your last name.

20 A Yes. My name is Fred Hayes, it's spelled
21 F-r-e-e-d H-a-y-e-s.

22 Q What is your present employment?

1 A I'm currently employed with the Village of
2 Elwood Police Department as the chief of police.

3 Q How long have you held that position?

4 A For three years.

5 Q And prior to being the chief of police in
6 Elwood, did you have a prior position in law
7 enforcement?

8 A Yes. Prior to Elwood, I was the chief of
9 police in the City of Joliet for five years serving
10 on the Joliet Police Department for 31 years.

11 Q So you were employed as a police officer by
12 the Village of Joliet for 36 years?

13 A Yes.

14 Q Can you tell the Court about your
15 education.

16 A I have a bachelor's degree in criminal
17 social justice. I have a master's degree in public
18 safety administration, both from Lewis University.

19 Q Subsequent to receiving your master's
20 degree, have you taken any other courses or embarked
21 on course study?

22 A Yes, I'm a graduate of the FBI National

1 Academy in Quantico, Virginia. I'm a graduate of the
2 Police Executive Research Forum Senior Management
3 Institute for Police out of Boston University. And
4 I've attained several courses of study out at
5 Northwestern University for police supervision and
6 have received hundreds of other hours of training too
7 lengthy to really go over.

8 Q Do you belong to any professional
9 societies?

10 A Yes, I do. I currently am the president of
11 the Illinois Association of Chiefs of Police. I'm
12 the past president and still an associate member for
13 the Will County Chiefs of Police Association. And
14 I'm also a member of the International Association of
15 Chiefs of Police.

16 Q Do your duties as the chief of police in
17 Elwood include matters relating to traffic management
18 and enforcement?

19 A Yes, they do.

20 Q And has your training and education
21 included that area?

22 A Yes, it has.

1 Q Did your duties when you were employed by
2 the Village of Joliet as the chief of police there
3 and as a patrol officer also include duties relating
4 to traffic management?

5 A Yes.

6 Q Chief Hayes, are you familiar with the
7 Union Pacific Railroad crossing on Strawn Road just
8 west of Route 53?

9 A Yes.

10 Q Are you familiar with the other access
11 roads in the area to the intermodal facilities?

12 A Yes.

13 Q Chief Hayes, when you were employed by the
14 Village of Joliet, did you have knowledge as to
15 permits issued by Joliet for overweight vehicles?

16 A Yes.

17 Q And can -- during the time you were
18 employed by the Village of Joliet, can you tell the
19 Court what the Village of Joliet policies were as to
20 overweight vehicles over 88,000 pounds?

21 A Yes, the City of Joliet policy while I was
22 employed there as the chief and previously to my

1 appointment as chief was to issue overweight permits
2 for vehicles in excess of 80,000 pounds with no
3 permit fee. It was a free permit. And also the City
4 of Joliet also honored any IDOT-issued permit.

5 I became aware of the City changing
6 that policy just as I was retiring from the City in
7 2011. And that policy was changed to mirror the
8 policy for truck permits from Will County, which was
9 to issue overweight permits only for vehicles over
10 80,000 up to 88,000 when they were grain
11 transportation vehicles or if the load was grain or
12 if the load was undividable.

13 Q Would a truck hauling grain over 88,000
14 pounds require a permit then -- over 80,000?

15 A Yes.

16 Q Okay. Sir, you were present in the court
17 during the testimony of Daniel Powers, the witness
18 from ICC Staff.

19 Do you recall that?

20 A Yes, I do.

21 Q Do you recall him testifying as to the
22 hearing transcript in 2002?

1 A Yes, I do.

2 Q Okay. And do you recall him testifying
3 that Strawn Road was not to be the primary access for
4 the intermodal facilities?

5 A Yes.

6 Q Is that your understanding as well?

7 A Yes, it is.

8 Q If Strawn Road is closed by the Illinois
9 Commerce Commission -- strike that.

10 If the Strawn Road crossing is closed
11 by the Illinois Commerce Commission, will overweight
12 vehicles be able to access the intermodal facilities
13 via alternate routes?

14 A The alternate routes would be I-55 and
15 Arsenal, which is a county route that eventually
16 arrives in the Village of Elwood, so they would have
17 to abide by the county regulation on overweight
18 permits, which is grain trucks over 80,000 up to
19 88,000 and the undividable loads.

20 And the other access location would be
21 Route 53 and Laraway through the city of Joliet,
22 which has just adopted that same policy.

1 Q Chief Hayes, are you familiar with the
2 interaction of trucks and the warning system at the
3 Strawn Road crossing?

4 A Yes.

5 Q The railroad warning system?

6 A Yes.

7 Q And what involvement has the Elwood Police
8 Department had at that crossing since you became
9 chief?

10 A Since I became chief, we've embarked on a
11 traffic safety initiative to improve the safety at
12 that particular intersection and at the crossing. So
13 my involvement has been direct observations,
14 planning, organizing and directing officers involved
15 in traffic enforcement operations there.

16 Q And when you say "direct observations,"
17 does that mean that you personally have witnessed the
18 conditions at the Strawn Road railroad crossing?

19 A Yes.

20 Q And would it be within your duties to
21 assign your officers to also patrol and observe at
22 that intersection?

1 A Yes.

2 Q Chief Hayes, during the pendency of the ICC
3 proceedings, have you requested that your officers
4 complete reports as to their tours at the Strawn
5 railroad crossing?

6 A Yes, I have. I've directed the officers to
7 prepare summary reports when they do traffic team
8 enforcement; but they do not prepare reports for
9 every enforcement effort, particularly when they're
10 single enforcement officers out there.

11 Q Okay. But for this particular crossing,
12 they have been preparing reports; is that correct?

13 A Yes.

14 Q So is that part of the business of the
15 police department to create those reports?

16 A Yes, it is.

17 Q And then to maintain those reports as well;
18 is that correct?

19 A Yes.

20 Q Okay. Would you look at Exhibit 7,
21 please -- Elwood Exhibit 7 -- Group Exhibit 7.

22 A Yes.

1 Q Can you tell the Court generally what's
2 contained in that group exhibit.

3 A Elwood Group Exhibit 7 is a memo dated
4 August 8th, 2014. The memo is to Commander Pat Kerr,
5 the police commander, from Officer Jim Hartley, the
6 patrol officer. The subject of the memo is a summary
7 of Walter Strawn enforcement traffic detail.

8 Q The bottom reflects that you received a
9 copy of that memo?

10 A Yes.

11 Q The memo contains what I would call bullet
12 points as to incidents that the officers decided to
13 report; is that fair?

14 A Yes.

15 Q And looking at the very first incident at
16 14:24 hours, can you tell the Court what that
17 incident reflects.

18 A Yes. At 14:24 hours a green tractor with a
19 green 53-foot container disobeyed the first traffic
20 light and continued over the railroad crossing
21 without stopping violating the red light. Officer
22 Wright conducted a traffic stop and the driver was

1 issued a citation for disobeying a traffic control
2 light.

3 Q Now, the report also contains tickets
4 issued by the police department for a violation such
5 as talking on a cell phone or violations that weren't
6 directly related to the crossing lights and
7 conditions at the railroad crossing; is that correct?

8 A Yes, it is.

9 Q So let's skip the noncrossing events,
10 please.

11 And so the next one would be at
12 14:44 hours. Can you tell the Court what that is.

13 A Yes. At 14:44 hours, a maroon truck
14 tractor disobeyed the stoplight and crossed over the
15 railroad tracks without stopping. Officer Adams
16 conducted a traffic stop and the driver was cited for
17 disobeying a traffic control light and no valid IFTA
18 sticker.

19 Q Looking at the last entry on that date at
20 17:48 hours, that relates to an automobile vehicle;
21 is that correct?

22 A Yes, it is.

1 Q And what did that vehicle do?

2 A A green four-door sedan violated both
3 traffic lights heading eastbound on Walter Strawn
4 turning northbound on to Route 53. Officer Adams and
5 Officer Wright conducted a traffic stop. The driver
6 was arrested and cited for disobeying a traffic
7 control light and no valid driver's license.

8 Q The last paragraph of the August 8th, 2014
9 report reflects that at the time of the tour, that
10 there was a fully marked Will County sheriffs squad
11 car parked at the intersection with emergency lights
12 activated; is that correct?

13 A Yes.

14 Q Would you look at Page 2 of Group
15 Exhibit 7, please, and can you tell the Court what
16 that is.

17 A Yes. Page 2 is an e-mail to Nick Narducci,
18 the Village administrator, Bill Offerman, the Village
19 mayor, from me copied to Pat Kerr, the police
20 commander, sent on Friday, August 15th, at 3:59 p.m.
21 The subject: Route 53 and Walter Strawn status.

22 Q And -- I'm sorry -- you said that you

1 drafted this e-mail?

2 A Yes.

3 Q Okay. And can you tell the Court what
4 generally is contained in here.

5 A Yes. This is a general summary of traffic
6 enforcement details that were stationed at Route 53
7 and Walter Strawn at the crossing. The e-mail
8 indicates that these details work Monday through
9 Friday from 10:00 a.m. until 3:00 p.m., that these
10 details were conducted while Will County sheriffs
11 officers were present in fully marked squad cars and
12 uniform. The e-mail also indicates that I spoke with
13 Deputy Glom (phonetic) and Deputy Reilly on separate
14 occasions during these assignments to obtain what
15 they had observed and what their protocol
16 instructions were.

17 And I indicate in the e-mail that, as
18 a result of these details, the officers wrote a total
19 of 12 citations during this enforcement endeavor, 6
20 of those were for traffic signal violations and 6
21 were just for seat belts.

22 Q Okay. The first paragraph, the last

1 sentence, it says, "The detail works Monday through
2 Friday from 10:00 a.m. until 3:00 p.m."

3 You're familiar with the fact that
4 funerals occur outside of those hours; is that
5 correct?

6 A Yes.

7 Q Okay. And so outside of those hours, the
8 Will County Sheriff is not present?

9 A That's correct.

10 Q Okay. And also in that first paragraph,
11 that the Will County Sheriff advised you that they
12 were to provide traffic control for funeral
13 processions, but they were to take no other
14 enforcement action; is that correct?

15 A That is correct.

16 Q And that means they weren't enforcing any
17 other traffic violations they might see at the
18 intersection or the railroad crossing?

19 A That is correct.

20 Q In the next paragraph it says, "They both
21 stated numerous violations, but didn't do anything
22 about it"; is that right?

1 A Yes.

2 Q The last sentence on the first page is your
3 statement that, "While the Will County police units
4 were visible and were positioned within the
5 intersection, that their presence failed to deter
6 violations."

7 Is that based on your observations of
8 what you saw?

9 A It's based on my observations directly and
10 the observations of the officers assigned to these
11 details from my department.

12 Q Would you look at the next page, which is
13 an interoffice memorandum dated August 11th, 2014,
14 and tell the Court what that is, please.

15 A Yes. This is interoffice memorandum dated
16 August 11th, 2014, from Police Commander Pat Kerr --
17 or, I should say, to Police Commander Pat Kerr from
18 Officer James Hartley of the second shift. The
19 subject: The summary of Walter Strawn traffic
20 enforcement detail on August 11th.

21 Q All right. And on the first page of that
22 memo, the incidents scheduled are either for traffic

1 violations or don't show any violation of the lights;
2 is that correct?

3 A That's correct.

4 Q And when I say "lights," I mean either
5 traffic lights or the railroad signal lights. Is
6 that how you understood me?

7 A Yes.

8 Q Okay. Let's look at Page 2, please.

9 And the first incident I see regarding
10 a violation of traffic lights is at 12:25 hours?

11 A Yes.

12 Q Can you tell the Court what that is,
13 please.

14 A Yes. At 12:25 a semi-tractor violated the
15 traffic lights heading eastbound on Walter Strawn
16 turning southbound onto Route 53. Officer Anderson
17 conducted a traffic stop and a citation was issued.

18 Q The next incident at 12:34 hours?

19 A At 12:34 hours a semi-tractor violated the
20 traffic lights heading eastbound on Walter Strawn
21 turning northbound onto Route 53. Officer Ledden
22 conducted a traffic stop and a citation was issued.

1 Q And on the next page at 13:28 hours?

2 A Yes. At 13:28 hours, a semi
3 tractor-trailer violated the traffic lights heading
4 eastbound on Walter Strawn turning southbound onto
5 Route 53. Officer Anderson conducted a traffic stop
6 and a citation was issued.

7 Q And the last paragraph of the report of
8 that tour indicates that one officer was assigned to
9 an unmarked car and also during the majority of the
10 detail, there was a fully marked Will County
11 Sheriff's squad parked at the intersection?

12 A Yes.

13 Q Would you turn to the next page, please.
14 Tell the Court what that page is.

15 A The next page is an interoffice memorandum
16 dated August 8th, 2014. This is for the file of
17 Route 53 and Walter Strawn. This is from Police
18 Commander Pat Kerr. The subject is a tractor-trailer
19 funeral violation.

20 Q Can you read the first full paragraph as to
21 what -- what is -- first of all -- I'm sorry -- let's
22 back up a sec.

1 The second paragraph reflects that you
2 were present at that day?

3 A Yes.

4 Q Okay. And can you tell the Court what you
5 saw as set forth in that second paragraph.

6 A Yes. I observed a funeral procession
7 consisting of approximately 30 vehicles traveling
8 southbound on Route 53 in the curb lane. The
9 procession was lead by a marked Summit Illinois
10 police Ford SUV interceptor and a police motorcycle.
11 I observed a dark blue semi-tractor pulling a trailer
12 containing a yellow box container in the inside lane
13 signal and then cut over effectively cutting off the
14 funeral procession.

15 Q Okay. Then the next paragraph talks about
16 your traffic stop and the assistance of one Will
17 County police officer.

18 In the second paragraph from the
19 bottom of that first page, can you tell the Court
20 what's in that paragraph.

21 A Yes. I spoke to the driver after --

22 Q When you say "you," you mean you

1 personally?

2 A Yes, I personally. I spoke to the driver
3 of this commercial vehicle who exhibited a heavy
4 middle eastern accent speaking broken English. The
5 driver indicated to me that he had entered into the
6 funeral procession because he was in a hurry. I then
7 advised him that it was a violation and gave him a
8 verbal warning.

9 Q What does the last paragraph reflect on the
10 last page?

11 A The last paragraph, we returned after the
12 traffic stop to speak with Will County Deputy Jim
13 Reilly, who was working the detail and was present
14 when this occurred. He told me that he and other
15 deputies see quite a few of these violations;
16 however, they were advised to restrict their
17 activities to assisting with the funeral processions
18 with safe ingress into the Abraham Lincoln National
19 Cemetery.

20 Q Would you turn to the next page, please,
21 and tell the Court what that is.

22 A Yes. This is an interoffice memorandum

1 dated August 8th, 2014, to Police Commander Pat Kerr
2 from Officer James Hartley, the second shift. The
3 subject: Summary of the Walter Strawn Traffic
4 Enforcement Detail.

5 Q Okay. In looking at the first entry at
6 14:24 hours, can you tell us what is depicted there.

7 A Yes. At 14:24 hours a green tractor with a
8 green 53-foot container disobeyed the first traffic
9 light and continued over the railroad crossing
10 without stopping violating the red light. Officer
11 Wright conducted a traffic stop and the driver was
12 issued a citation for disobeying a traffic control
13 light.

14 Q Can you tell us about the entry at
15 14:44 hours?

16 A The entry at 14:44 approximately, a maroon
17 truck tractor disobeyed the stoplight, crossed over
18 the railroad tracks without stopping. Officer Adams
19 conducted a traffic stop and the driver was cited for
20 disobeying a traffic control light and no valid IFTA
21 sticker.

22 Q And then the last entry on that page at

1 17:48 hours.

2 A At 17:48 hours, a green four-door sedan
3 violated both traffic lights heading eastbound on
4 Walter Strawn turning northbound onto Route 53.
5 Officer Adams and Officer Wright conducted a traffic
6 stop. The driver was arrested and cited for
7 disobeying a traffic control light and no valid
8 driver's license.

9 Q The second page of that date's memorandum
10 reflects what?

11 A The second page states, "It should be noted
12 that during this enforcement, I was assigned to an
13 unmarked personal vehicle. Also, for the majority of
14 the duration of this detail, there was a fully marked
15 Will County Sheriff's squad car parked at the
16 intersection with the emergency lights activated."

17 Q Chief, many -- I believe almost every
18 memorandum you've testified about so far has had that
19 paragraph that the Will County Sheriff was present.

20 Do you have an opinion as to whether
21 the presence of the Will County Sheriff deters
22 traffic violations?

1 A Yes, I do.

2 Q And what is that opinion?

3 A My opinion is the presence of Will County
4 Sheriff's deputies in the intersection did not abate
5 any of the violations or make the intersection safer.

6 Q Would you look at the next page of the
7 group exhibit, please, and tell the Court what that
8 is.

9 A Yes. This is an e-mail to the Village
10 administrator, Nick Narducci, the Village mayor, Bill
11 Offerman, from me, drafted by me, sent by me on
12 Wednesday, August 27th, 2014, at 8:08 a.m. The
13 subject: Walter Strawn Traffic Enforcement.

14 Q And that e-mail attached the next document,
15 which is the memorandum of August 22nd, 2014?

16 A Yes.

17 Q Now, directing your attention at the bottom
18 of the first page, the incident at 11:26 hours, can
19 you tell the Court what that provides.

20 A Yes. At 11:26 hours, a commercial motor
21 vehicle was observed disobeying the first traffic
22 light as it was proceeding eastbound on Walter Strawn

1 at Route 53. Officer Jaburek conducted a traffic
2 stop and a verbal warning was given.

3 Q Now, the memorandum itself, instead of
4 commercial motor vehicle, it says CMV.

5 Is CMV an abbreviation for commercial
6 motor vehicle?

7 A Yes, it is.

8 Q Would you look at the next page, please,
9 and specifically the report at 11:50 hours.

10 A At 11:50 hours, a CMV was observed
11 disobeying the first traffic light as it was
12 proceeding east on Walter Strawn at Route 53. No
13 officer was available to conduct a traffic stop.

14 Q 1 minute later the next entry at 11:51?

15 A 1 minute later at 11:51 a CMV was observed
16 disobeying the first traffic light as it was
17 proceeding east on Walter Strawn at Route 53. No
18 officer was available to conduct a traffic stop.

19 Q The entry at 12:14 hours, please.

20 A At 12:14, a CMV was observed northbound on
21 Route 53 in violation of excessive engine braking.
22 No officer was available to conduct a traffic stop.

1 Q The entry at 12:31 hours, please?

2 A At 12:31, a CMV was observed disobeying the
3 first traffic light as it was eastbound on Walter
4 Strawn at Route 53. The driver was also not wearing
5 a seat belt. No officer was available to conduct a
6 traffic stop.

7 Q And -- I'm sorry -- I may have skipped one.
8 4 minutes earlier at 12:27, what is
9 that entry?

10 A At 12:27, a CMV was observed disobeying the
11 first light as it was proceeding eastbound on Walter
12 Strawn at Route 53. No officer was available to
13 conduct a traffic stop.

14 Q The next page, the last -- second to last
15 entry at 13:58 hours.

16 A At 13:58, a CMV was observed disobeying the
17 first traffic light as it proceeded eastbound on
18 Walter Strawn at Route 53. Officer Anderson
19 conducted a traffic stop and a verbal warning was
20 given.

21 Q And the last page of the exhibit, please.

22 The last paragraph also notes that

1 there was a fully marked Will County sheriff's squad
2 car parked at the intersection; is that correct?

3 A Yes.

4 Q Chief Hayes, Elwood Group Exhibit 7, those
5 are reports that are maintained in the normal course
6 of the business of a police department?

7 A Yes.

8 Q And these documents were prepared in the
9 course of that business?

10 A Yes.

11 MR. STREICHER: Your Honor, I would offer into
12 evidence Elwood Group Exhibit 7.

13 JUDGE KIRKLAND-MONTAQUE: Any objection?

14 MR. SHUMATE: No, objection, your Honor, but I
15 do want a clarification on here.

16 The very first page is a summary of
17 Walter Strawn traffic enforcement detail. And then
18 later on there is another document on Elwood Police
19 Department letterhead dated August 8th, 2014. This
20 is the same document -- I mean, it's the same -- so
21 it's been read into the record twice. And so it's --
22 I'm just pointing that out, that there's duplication

1 in here. I don't object to it, it's just I'm
2 pointing it out for the purpose of the record.

3 MR. STREICHER: It appears Mr. Shumate is
4 right. The August 8th memo that's the first page is
5 also attached to an Elwood Police Department
6 interoffice memorandum on letterhead dated August 8th
7 and to the extent there's any confusion for that, I
8 apologize to the Court.

9 JUDGE KIRKLAND-MONTAQUE: So that's Group
10 Exhibit 7 Elwood?

11 MR. STREICHER: Yes.

12 JUDGE KIRKLAND-MONTAQUE: Do you have a copy
13 for the court reporter to stamp?

14 MR. STREICHER: Yes. May I tender it to her?

15 THE COURT: Yeah.

16 MR. KALLISH: No objection from CenterPoint.

17 JUDGE KIRKLAND-MONTAQUE: Okay. Thank you.

18 Staff?

19 MS. ANDERSON: No objection.

20 JUDGE KIRKLAND-MONTAQUE: All right. Elwood
21 Group Exhibit 7 is admitted.

22

1 (Whereupon, Elwood's Group
2 Exhibit No. 7 was admitted into
3 evidence.)

4 BY MR. STREICHER:

5 Q Chief Hayes, is it also part of the
6 business of the Elwood Police Department to take
7 videos located from video cams in squad cars?

8 A Yes.

9 Q I'd like to refer you to Exhibit 28, which
10 is the video and it's loaded on the computer there.
11 And I would ask you to start the video. The video is
12 quite long and it's only the first part that is
13 relevant here. So I'll ask you to stop it once we
14 get past the main incident.

15 But if you would start the video now,
16 and then as we've done with other videos, we'll
17 comment on it.

18 A Yes.

19 JUDGE KIRKLAND-MONTAQUE: Mr. Streicher, do you
20 want to turn the lights down?

21 MR. KALLISH: Just for clarification, I don't
22 believe there is an Exhibit 28. Is it 27?

1 MR. STREICHER: 27.

2 MR. KALLISH: But this clip is 27?

3 MR. STREICHER: This particular video is 27.

4 MR. KALLISH: Okay. Thank you.

5 MR. SHUMATE: That clarifies it.

6 MR. STREICHER: And also for clarification,
7 Judge, this particular video was included in the
8 presentation so far of Ms. Hollingsworth's
9 PowerPoint.

10 BY MR. STREICHER:

11 Q Would you start the video and stop it when
12 I ask you to, please.

13 A Yes.

14 Q Okay. Would you stop the video there,
15 please. The time mark is 18:22:47.

16 MR. STREICHER: And I misspoke, Judge. This
17 was designated as Exhibit 26 --

18 THE COURT: Okay.

19 MR. STREICHER: -- on our schedule.

20 BY MR. STREICHER:

21 Q And, Chief Hayes, have you seen this video
22 before?

1 A Yes, I have.

2 Q And this is the video that was taken from a
3 dash cam in one of your squad cars?

4 A Yes, it is.

5 Q And is it part of the business of the
6 Village of Elwood to take videos from squad cars?

7 A Yes.

8 Q And this video was done earlier in that
9 process?

10 A Yes.

11 Q Can you go back to the beginning of the
12 video, please.

13 And -- so we're beginning at 18:22:01.

14 Can you start the video and stop it
15 when the camera begins to pan to the right and tell
16 the Court what's happening there.

17 A Yes.

18 Q And you can narrate also as we go.

19 A Yes.

20 This is the dash cam video of Route 53
21 and Walter Strawn. The officer's video camera is
22 facing southbound. The signal is beginning to go

1 from yellow to red. The traffic is beginning to
2 egress to travel eastbound.

3 Q Okay. Can you stop there, please.

4 A Yes.

5 Q The time stamp is 18:22:17. So traffic for
6 southbound Highway 53 is now red; is that correct?

7 A Yes, it is.

8 Q And then at the right side of the video,
9 you can see the right turn signal, which is
10 illuminated green; is that correct?

11 A Yes.

12 Q And you can also see the no right turn
13 signal illuminated; is that correct?

14 A Yes.

15 Q Do you see anything else there or should we
16 keep on going?

17 Can you stop there, please.

18 A Yes.

19 Q We've stopped it at 18:22:22.

20 What does this show?

21 A This actually shows -- the officer has
22 panned his dash cam video to the right of his vehicle

1 looking towards the west to get a better view of the
2 rail crossing and the activated rail gates that are
3 beginning to come down to the down position. There's
4 also a Will County Sheriff's unit that's going to be
5 traveling through the intersection here.

6 Q Is that the white vehicle in front of the
7 truck that's presently in the crossing?

8 A That's this vehicle right here.

9 Q And that's a white four-door sedan in front
10 of the red truck that's presently in the crossing; is
11 that correct?

12 A Yes, it is.

13 Q Okay. Would you continue, please.

14 And stop there. We're at 18:22:25.

15 Can you tell the Court what just
16 happened.

17 A Yes. The vehicles continued to egress.
18 The commercial motor vehicle here with the white cab
19 and the red trailer was struck by the rail gate as
20 that was coming down.

21 Q The rail gate broke?

22 A Yes, it did.

1 Q And you can see also that the flashing
2 lights are indeed flashing?

3 A Yes.

4 Q And then would you continue with the video,
5 please.

6 A This is the video of the officer now
7 traveling southbound on Route 53 approaching that
8 particular commercial vehicle in order to effect a
9 traffic stop.

10 Q You can see the reflection of the emergency
11 lights on the vehicle and the traffic signs?

12 A Yes.

13 Q Could you stop the video here, please. We
14 stopped it at 18:23:05.

15 The balance of the video you're
16 familiar with, Chief?

17 A Yes, I am.

18 Q And that is the officer effectuating the
19 stop and issuing a ticket?

20 A Yes.

21 Q Thank you.

22 A And I need to correct myself there. At

1 this particular stop, the officer gave the driver a
2 warning.

3 Q Okay. Among the reports you've identified
4 in Group Exhibit -- oh, one moment.

5 MR. STREICHER: Judge, I would offer into
6 evidence, Exhibit 26, the video.

7 JUDGE KIRKLAND-MONTAQUE: Any objection?

8 MR. SHUMATE: No objection.

9 MS. ANDERSON: No.

10 JUDGE KIRKLAND-MONTAQUE: Elwood Exhibit 26 is
11 admitted.

12 MR. STREICHER: Thank you, Judge.

13 (Whereupon, Elwood's Exhibit
14 No. 26 was admitted into
15 evidence.)

16 BY MR. STREICHER:

17 Q Chief Hayes, beyond the reports you
18 identified in Exhibit 7 and the movie in Exhibit 26,
19 do you have personal experience observing incidents
20 at Strawn Road?

21 A Yes, I do.

22 Q And do you have any personal knowledge as

1 to trucks and funeral processions?

2 A Yes, I do.

3 Q Can you tell the Court about that?

4 A Yes. I have personally directed traffic in
5 this intersection for a variety of incidents, whether
6 they're traffic crashes, funeral processions,
7 assisting the officers in these traffic enforcement
8 details, so I have recognized that this is a very
9 dynamic intersection that experiences a large amount
10 of traffic violations.

11 Q Chief Hayes, based on your training,
12 education and experience, do you have an opinion as
13 to whether or not this is a safe railroad and street
14 crossing?

15 A Yes. It is my opinion, based on my
16 training and experience and through direct
17 observations there, at the present day this
18 intersection is unsafe.

19 Q Chief Hayes, you've testified that you're
20 familiar with the presence of the Will County Sheriff
21 to marshal funeral processions.

22 Do you recall that testimony?

1 A Yes.

2 Q Do you have an opinion as to whether the
3 presence of the Will County Sheriff is effective in
4 marshaling the funeral processions?

5 A Yes, I do.

6 Q What is that, please?

7 A I do not think that they are effectively
8 accomplishing that goal.

9 Q Why is that?

10 A In speaking with the deputies personally on
11 the scene, assisting them in directing traffic, and
12 making direct observations on numerous processions
13 through that intersection, I have noted that there
14 was no protocol for the officers or the deputies
15 assigned to the intersection.

16 As a matter of fact, I observed on
17 numerous occasions where the deputies do not even
18 exit their squad cars when these funeral processions
19 come through. I do note that they have one position
20 to the north, an advance warning trying to notify the
21 second officer assigned in the intersection.

22 And as I met with the deputies on this

1 assignment, virtually each deputy gave me a different
2 answer on what they were attempting to accomplish
3 there.

4 Q Do you have an opinion, sir, as to whether
5 the presence of the Will County Sheriff acts as a
6 deterrent to traffic violations?

7 A Yes, I do.

8 Q What is that?

9 A It's my opinion that their presence at that
10 intersection does little to deter traffic violations
11 there.

12 Q You're aware of changes that the parties
13 have discussed before the Illinois Commerce
14 Commission regarding changes to the warning system of
15 the railroad crossing as well as the traffic lights;
16 is that correct?

17 A Yes.

18 Q Specifically there was a change made in the
19 delay from the onset of flashing lights to the gates
20 coming down. Are you aware of that?

21 A Yes, I am.

22 Q Do you have an opinion as to whether or not

1 that change in any way enhanced the safety at the
2 crossing?

3 MR. KALLISH: I'm going to object, your Honor.
4 I don't think this witness is qualified to testify
5 regarding the changes in the traffic signals.

6 MS. ANDERSON: Your Honor, I would also join in
7 that objection based on Mr. Hayes' experience and the
8 foundation for his testimony. I think that that
9 signalization issue is an engineering issue outside
10 of his knowledge.

11 MR. STREICHER: On the contrary, your Honor,
12 Chief Hayes has testified that in his career over
13 almost 40 years, it's involved traffic management and
14 experience in traffic situations.

15 JUDGE KIRKLAND-MONTAQUE: Overruled.

16 THE WITNESS: Yes, I do have an opinion.

17 BY MR. STREICHER:

18 Q What's that, please?

19 A My opinion is that's actually aggravated
20 the crossing. We've seen an increase in violations
21 in direct relation to that change. My direct
22 observations at the scene and those reported to me

1 from my officers have indicated that it's been more
2 confusing to the operators of commercial motor
3 vehicles.

4 Q Do you have an opinion as to whether the
5 video cameras now at the railroad crossing act as a
6 deterrent for traffic violations?

7 A Yes, I do.

8 Q What is that?

9 A They do not deter any traffic violations.

10 Q You're aware that the type of gates was
11 changed to include a gate saver device, which in
12 essence puts a spring on the gate; is that correct?

13 A Yes.

14 Q Okay. Do you have an opinion as to whether
15 or not using spring-type gates increased the safety
16 at the crossing?

17 MR. KALLISH: Again, your Honor, I'm going to
18 object. I don't believe this witness is qualified to
19 give opinions concerning the mechanics of the gate
20 system or the springs. He's not an engineer.

21 JUDGE KIRKLAND-MONTAQUE: But I think the
22 answer just goes towards his observation in terms of

1 how -- what impact they've had on the traffic. So
2 I'll allow the question. Overruled.

3 THE WITNESS: My answer is, yes, I do have an
4 opinion to that.

5 BY MR. STREICHER:

6 Q What is that, sir?

7 A My opinion is that has not improved safety
8 at that crossing.

9 Q Chief Hayes, you're aware that the Village
10 of Elwood enacted an ordinance to try and change
11 traffic patterns and enforce traffic management
12 changes at the intersection, aren't you?

13 A Yes.

14 Q And the Village of Elwood did make those
15 changes pursuant to its ordinance; is that right?

16 A Yes.

17 Q And what, if anything, happened after those
18 changes were made?

19 A Well, the Village was served with a TRO and
20 ordered to remove the barriers from those traffic
21 changes.

22 Q And when you say "a TRO," you mean that's a

1 lawsuit with a prayer of relief of a temporary
2 restraining order?

3 A Yes, sir.

4 Q And CenterPoint was one of the plaintiffs
5 in that lawsuit?

6 A Yes.

7 Q And --

8 MR. KALLISH: I'm going to object, your Honor.
9 I don't know what the relevancy of what happened in
10 that federal proceedings --

11 JUDGE KIRKLAND-MONTAQUE: Where are you going
12 with that, Mr. Streicher? Where are you going with
13 that?

14 MR. STREICHER: I'm going to accept that
15 objection, your Honor.

16 JUDGE KIRKLAND-MONTAQUE: Okay.

17 MR. STREICHER: I don't think the federal
18 litigation is relevant in this anyway in this
19 proceeding. I'll withdraw those questions.

20 Nothing further of this witness.

21 JUDGE KIRKLAND-MONTAQUE: Okay. So,
22 Ms. Anderson, do you have any questions for the

1 witness?

2 CROSS-EXAMINATION

3 BY

4 MS. ANDERSON:

5 Q Chief Hayes, just to clarify, when you were
6 being asked questions by Mr. Streicher and he was
7 asking you questions about your observations based on
8 particular times shown on the video, the times that
9 you were responding to was the time that's shown on
10 the lower right corner of the dash cam and not the
11 time on the media player on the computer that you
12 were using, correct?

13 A That's correct, the superimposed time on
14 the video, the time stamp on the video itself.

15 MS. ANDERSON: Your Honor, I have no further
16 questions.

17 JUDGE KIRKLAND-MONTAQUE: Okay. Mr. Shumate.

18 MR. SHUMATE: Yes. Just two questions.

19 CROSS-EXAMINATION

20 BY

21 MR. SHUMATE:

22 Q You indicated that --

1 JUDGE KIRKLAND-MONTAQUE: You need the
2 microphone, Mr. Shumate.

3 BY MR. SHUMATE:

4 Q You indicated with regard to the
5 gatekeepers, the springs, that, in your opinion, it
6 didn't improve safety at the crossing.

7 If a gate doesn't get broken off and
8 it's still there for the next train, isn't that
9 better than a gate that's been broken and is not
10 there for the next train?

11 A Yes.

12 Q Okay. And then the next question is, with
13 regard to your experience -- and a lot of the
14 examples that you had in your memorandums and -- with
15 the patrol officers, is there a lot of violations of
16 what I'll call the presignal, that's traffic heading
17 east on Walter Strawn Road going toward Route 53.

18 And one of the questions I have is
19 whether or not where the presignal is currently
20 located and where the stop bar is, is whether because
21 of the size of these trucks and the frequency of the
22 trucks, that if they were moved back, the stop bar is

1 40 feet, that they would have a better opportunity to
2 see that presignal rather than just seeing the
3 downstream green -- clearing green? Do you have an
4 opinion on that?

5 A Yes, I do.

6 Q What is that?

7 A For the same reasons that were stated in
8 testimony earlier today, I view that as an issue as
9 far as the sight lines go for motorists who pull up
10 to that stop bar that's been moved back further from
11 the actual crossing itself.

12 As a matter of fact, that's -- many of
13 the violations that we observe is confusions by
14 motorists who pull up to the stop bar or pull past it
15 when there's red flashing signals. When they're
16 going to violate that, they like to look down the
17 railroad tracks before they start moving through.

18 And so I think moving it further back
19 would decrease their sight line, it would be harder
20 for them to look there. So in my opinion, as far as
21 moving the presignal further to the west is that it
22 probably would not improve safety.

1 Q Not the presignal, but how about the stop
2 bar?

3 A And let me correct myself. I meant the
4 stop bar.

5 Q Okay.

6 A Yep.

7 MR. SHUMATE: Thank you.

8 JUDGE KIRKLAND-MONTAQUE: CenterPoint.

9 MR. KALLISH: Yes, your Honor. Thank you.

10 CROSS-EXAMINATION

11 BY

12 MR. KALLISH:

13 Q Chief Hayes, you were testifying regarding
14 the Village's Group Exhibit 7, which were a series of
15 memorandums and documents discussing officer patrols
16 on August 8th, August 11th, August 22nd.

17 Do you recall that?

18 A Yes.

19 Q Okay. During those three days that
20 officers were present at the Walter Strawn crossing,
21 there were no incidents that involved the trains in
22 terms of truck-versus-train incidents; is that

1 correct?

2 A Yes.

3 Q And on the days that your officers were
4 present -- August 8th, August 11th and August 22nd --
5 there were no accidents within the crossing
6 concerning trucks and automobiles; is that right?

7 A At the crossing, that's correct.

8 Q And isn't it true that there has never been
9 a truck accident involving a train at the Walter
10 Strawn crossing?

11 There's never been a
12 truck-versus-train accident at the Walter Strawn
13 crossing; is that correct?

14 A That's correct.

15 Q You also were testifying regarding
16 overweight trucks.

17 Do you recall that?

18 A Yes.

19 Q Okay. Would you agree that a truck that
20 weighs more than 88,000 pounds, if the Walter Strawn
21 crossing is closed, would be completely prohibited
22 from entering the intermodal facility either at the

1 BNSF or at the Union Pacific?

2 A You'd have to talk to City of Joliet and
3 Will County.

4 Q But my question to you is, are you aware of
5 an alternative route for trucks that weigh more than
6 88,000 pounds to enter the CIC intermodal facility in
7 the event that the crossing at Walter Strawn is
8 closed?

9 A Well, I'm aware that the City of Joliet
10 seemed to have arbitrarily changed the enforcement --
11 and I'll say decades-long enforcement on Laraway
12 Road. And because of that, a vehicle over 88,000
13 pounds cannot go down Laraway Road. And Will County
14 has a similar -- the same policy the City of Joliet
15 has adopted on Arsenal Road.

16 Q So then you agree with the statement that
17 if the Walter Strawn crossing is closed, trucks that
18 weigh more than 88,000 pounds will have no access
19 into the intermodal facility, the CIC?

20 A No, I don't agree with that.

21 Q Why don't you agree with that?

22 A Because they have access through Laraway

1 Road.

2 Q Okay. Let me show you -- do you have the
3 exhibits?

4 So is it your testimony that trucks
5 that are over 88,000 pounds can access the CIC
6 through Laraway Road? Is that your testimony?

7 A When I was the police chief there they
8 could, yes.

9 Q Well, let me ask you this question: In the
10 event that the crossing at Walter Strawn Road is
11 closed at some time after this proceeding, will there
12 be an access point for trucks that are -- weigh more
13 than 88,000 pounds into the CIC?

14 A Again, sir, you'd have to ask the City of
15 Joliet.

16 Q Well, I'm asking you whether you're aware
17 of an alternative route that will exist if Walter
18 Strawn is closed sometime after this proceeding to
19 allow trucks that weigh more than 88,000 pounds into
20 the CIC?

21 A Laraway Road.

22 Q Okay. So it's your testimony that right

1 now Laraway Road is an available option for trucks
2 that weigh more than 88,000 pounds, it's a viable
3 alternative to Walter Strawn Road? Is that your
4 testimony?

5 MR. STREICHER: Objection. Asked and answered.
6 This is now the third time.

7 JUDGE KIRKLAND-MONTAQUE: This is --

8 MR. KALLISH: It's a simple question.

9 JUDGE KIRKLAND-MONTAQUE: I'll allow it.
10 Overruled. I'll allow the answer.

11 THE WITNESS: Again, the answer is, you'll have
12 to talk to the City of Joliet.

13 MR. KALLISH: Again, your Honor, I don't
14 believe he's responded. This is a "yes" or "no"
15 answer. I'm asking him whether he believes as he
16 sits here today that if Walter Strawn Road is closed
17 after these proceedings, whether there is a viable
18 alternative access point to the CIC for trucks
19 weighing over 88,000. It's to the question --

20 JUDGE KIRKLAND-MONTAQUE: He said Laraway Road.
21 That's what I heard. Is that not the answer? That's
22 what he said.

1 BY MR. KALLISH:

2 Q That's your testimony, that they
3 could access --

4 MR. STREICHER: Objection. Asked and answered.

5 MR. KALLISH: I just want to get a -- I'm
6 trying to confirm it --

7 JUDGE KIRKLAND-MONTAQUE: I --

8 MR. STREICHER: He's badgering the witness.

9 JUDGE KIRKLAND-MONTAQUE: Okay. All right. I
10 heard him say Laraway Road a couple of times. I
11 don't see why you need to --

12 MR. KALLISH: Okay. If that's his testimony,
13 then I could move on, your Honor. Thank you.

14 BY MR. KALLISH:

15 Q Let me show what -- let me show you a
16 binder that contains the Village's exhibits.

17 Can you take a look at that.

18 A Yes, sir.

19 Q Can I call your attention to Tab No. 10.
20 That's a technical memorandum by Baxter & Woodman
21 Consulting Engineers.

22 Do you know who they are?

1 A Yes, I do.

2 Q Okay. They do work on behalf of the
3 Village of Elwood; is that correct?

4 A Yes.

5 Q Okay. If you turn to the back of Exhibit
6 No. 10, you'll see that there's a map and it says
7 "designated truck routes."

8 Do you see that? It's labeled
9 Exhibit 1 to Exhibit 10 by the Village.

10 Do you see that?

11 A Yes.

12 Q Okay. And then you'll see that the roads
13 are color-coded; is that correct?

14 A Yes.

15 Q Okay. And then at the bottom of this page,
16 there's a key that indicates blue lines, Class 1
17 designated truck route.

18 Do you see that?

19 A Yes.

20 Q Yellow lines, Class 2 designated truck
21 route, correct?

22 A Yes.

1 Q A red line is a state road.

2 Do you see that?

3 A Yes.

4 Q And green is a county road.

5 Do you see that?

6 A Yes.

7 Q What's your understanding of what a Class 1
8 designated truck route is?

9 A A Class 1 designated truck route is
10 interstate travel for commercial motor vehicles.

11 Q Okay. And is there a weight restriction on
12 that road?

13 A 80,000 pounds.

14 Q Okay. And what's your understanding of a
15 Class 2 designated truck route?

16 A A Class 2 designated truck route is a
17 secondary road, usually under the jurisdiction of a
18 local municipality or a county government. It's very
19 similar to a Class 1.

20 Q Is there a weight restriction with a
21 Class 2 designated truck route?

22 A 80,000 pounds.

1 Q Okay. And then what's your understanding
2 of a county road?

3 A A county road is a road maintained by
4 either a county government or a highway commissioner
5 for that county, designated highway commissioner.

6 Q And is there a weight restriction for a
7 county road?

8 A There can be.

9 Q Okay. And is that set by the County if
10 it's designated as a county road?

11 A Yes, either the County or the commissioner
12 that has jurisdiction over that road.

13 Q Okay. If you look at the map here, can you
14 find Laraway Road for me.

15 It's sort of halfway -- a quarter down
16 the page, correct? Do you see it?

17 A Yes, I do now.

18 Q If you put your finger there where Laraway
19 Road is, it's designated in green; is that correct?

20 A I see yellow at --

21 Q Well -- okay.

22 A -- 53 and --

1 Q Okay. Let's look at 53 -- Route 53 where
2 it intersects with Laraway Road. It's designated as
3 yellow for a portion of the road; is that correct?

4 A Yes.

5 Q So coming off of 53 with the yellow
6 designation, that would suggest that it's a Class 2
7 road as it exited -- as it exits from 53; is that
8 correct?

9 A Yes.

10 Q Okay. And, therefore, there would be a
11 weight restriction on that road; is that correct?

12 A Yes.

13 Q Okay. And what would that weight
14 restriction be?

15 A 80,000 pounds.

16 Q Okay. And so a truck that weighs more than
17 88,000 pounds could not use -- could not exit off of
18 53 and then go on to Laraway Road under the current
19 designation that's depicted in this exhibit; is that
20 correct?

21 A I don't believe that's correct.

22 Q Well, I'm asking you based upon the Class 2

1 designation, which you said is for 80,000 -- it's a
2 maximum weight of 80,000 pounds; is that right?

3 A That is correct.

4 Q Okay. So assuming that Baxter Woodman, the
5 Village of Elwood's consulting engineers, are
6 accurate, it is not possible for a truck weighing
7 over 88,000 pounds to exit 53 and go onto Laraway
8 Road based upon this exhibit; is that correct?

9 A If we were to base it solely on this
10 exhibit, my answer would be yes.

11 Q Okay. Are you familiar with Joliet
12 Ordinance 19-17?

13 A The number, no. That number doesn't --

14 Q Okay.

15 A -- help me.

16 Q Okay. Are you aware that the City of
17 Joliet has an ordinance that designates truck routes?

18 A Yes.

19 Q Okay. And in that ordinance, at
20 Section 19-14, the City of Joliet specifically states
21 what are the truck routes that are within the
22 jurisdiction of the City of Joliet; is that correct?

1 MR. STREICHER: I'm going to object, your
2 Honor. Counsel's testifying. He said he's not
3 familiar with the ordinance, he knows that there is
4 an ordinance, and now he's asking him if a specific
5 recitation is correct. There's no foundation.

6 JUDGE KIRKLAND-MONTAQUE: I'm sorry. What's --

7 MR. KALLISH: I can back up.

8 JUDGE KIRKLAND-MONTAQUE: Back up.

9 MR. KALLISH: Okay.

10 BY MR. KALLISH:

11 Q So you were aware that the City of Joliet
12 has an ordinance that designates truck routes,
13 correct?

14 A Yes.

15 Q Okay. Have you ever looked at that
16 ordinance, either -- strike that.

17 Have you ever looked at the Joliet
18 ordinance that designates truck routes?

19 A I don't recall if I have.

20 Q Okay. Let me show it to you. Maybe it
21 will refresh your recollection.

22 MR. KALLISH: Your Honor, can I approach the

1 witness?

2 JUDGE KIRKLAND-MONTAQUE: You may.

3 BY MR. KALLISH:

4 Q So I'm showing you the Joliet ordinance.
5 You see right here it says -- Section 19.4, it says
6 "Truck routes designated."

7 Do you see that?

8 A Yes, I do.

9 Q Have you ever reviewed this ordinance
10 before?

11 MR. STREICHER: Objection, your Honor. The
12 purpose of this question is to refresh his
13 recollection. So now he's shown him the document,
14 and the only proper question is whether or not it has
15 refreshed his recollection, not if he's reading it.

16 JUDGE KIRKLAND-MONTAQUE: He's right, Mr. --
17 I'm sorry. Tell me your name again.

18 MR. KALLISH: Previously he indicated that he
19 had reviewed the -- I believe he said he had reviewed
20 the statute.

21 JUDGE KIRKLAND-MONTAQUE: He said he did not --
22 he didn't recall whether he'd seen it.

1 MR. KALLISH: Okay. Let me clarify then, your
2 Honor.

3 BY MR. KALLISH:

4 Q Does that document refresh your
5 recollection as to whether you've ever seen the
6 Joliet ordinance that designates truck routes?

7 A Yes, it does.

8 Q Okay. So you have, in fact, reviewed that
9 ordinance in the past; is that correct?

10 A In its previous form, yes.

11 Q Okay. Is there something different about
12 this ordinance that's in front of you that -- this
13 ordinance that is in front of you from what you have
14 previously reviewed?

15 A Yes. As my earlier testimony reflected,
16 the City of Joliet has changed its policy; and it's
17 reflected in this ordinance you've handed me, which
18 has an amended date of 8/5/13. The previous amended
19 date was 2/19 of 1992.

20 Q Okay. Do you believe the ordinance in
21 front of you is the current Joliet ordinance?

22 MR. STREICHER: Objection. Foundation.

1

2 BY MR. KALLISH:

3 Q Do you know how to read -- do you know how
4 to read -- in your experience --

5 JUDGE KIRKLAND-MONTAQUE: Sustained.

6 BY MR. KALLISH:

7 Q -- as a police officer --

8 MR. KALLISH: I'm sorry, your Honor.

9 JUDGE KIRKLAND-MONTAQUE: I'm sorry. I was
10 just sustaining his objection, so re- -- rephrase
11 your question.

12 BY MR. KALLISH:

13 Q In your experience as the Chief of Police
14 of Elwood and your previous experience with the
15 Joliet Police Department, did you have occasion to
16 review municipal ordinances?

17 A Yes.

18 Q And are you familiar with the effective
19 dates that are depicted on municipal ordinances?

20 A Yes.

21 Q Are you able to determine whether the
22 document that you have in front of you, the Joliet

1 municipal ordinance concerning designated truck
2 routes, is the municipal ordinance that's effective
3 in this time frame today?

4 MR. STREICHER: Objection. Form of the
5 question.

6 The document before him has an
7 effective date and, in essence, Counsel is asking him
8 if he believes it is the current ordinance. There's
9 no foundation for that.

10 JUDGE KIRKLAND-MONTAQUE: Sustained.

11 Counsel, you realize that there could
12 be a more up-to-date version that he doesn't have
13 access to.

14 BY MR. KALLISH:

15 Q Okay. Do you have any knowledge of a more
16 up-to-date version than the document that's in front
17 of you?

18 A As I look at the document before me, it
19 looks like this was last updated, as I stated
20 earlier, 8/5 of 2013. Previous to that, it was 2/19
21 of '92.

22 Q Are you aware of any updates to that

1 municipal ordinance after the effective date,
2 8/2/13 (sic)?

3 MR. STREICHER: Objection. Foundation.

4 JUDGE KIRKLAND-MONTAQUE: Sustained.

5 BY MR. KALLISH:

6 Q Okay. As of August of 2'13, can you tell
7 me whether Laraway Road is designated as a truck
8 route by -- under that municipal ordinance?

9 A I don't see it listed on here.

10 Q Okay. So based upon your knowledge of
11 municipal ordinances, would you say that based upon
12 at least August of 2'13, that Laraway Road was not
13 designated as a truck route?

14 A I can't answer that. I'm really not
15 certain.

16 Q Why can't you answer that?

17 MR. STREICHER: Objection.

18 MR. SCHMIDT: He answered it.

19 MR. STREICHER: He can't.

20 MR. KALLISH: I'm trying to understand why he
21 can't -- he says that he can read municipal
22 ordinances, and I'm asking whether, at the effective

1 date, what -- whether Laraway Road was designated by
2 that ordinance as a truck route. So I'm not sure why
3 he can't answer the question. I'm just trying to
4 find out what --

5 MR. STREICHER: It doesn't matter why
6 Counsel -- if Counsel doesn't understand why he can't
7 answer it. He was asked a question; the witness
8 said, "I can't answer the question." It's badgering.

9 JUDGE KIRKLAND-MONTAQUE: So let me ask, do you
10 know the answer to the question?

11 THE WITNESS: I don't believe I do, your Honor.

12 JUDGE KIRKLAND-MONTAQUE: Okay. That's the
13 answer to the question. I don't think there's
14 another -- I think that's the answer to the question,
15 then.

16 MR. KALLISH: Okay.

17 BY MR. KALLISH:

18 Q Is it your testimony that the presence of
19 squad cars or police presence at the Walter Strawn
20 crossing does not deter signal violations by trucks?

21 A Yes.

22 Q Okay. Can I show you what I believe was

1 previously marked by the ICC Staff as Exhibit 2.

2 So I'm showing you what's been
3 previously marked by the ICC Staff as Exhibit 2.

4 Do you see that?

5 A Yes.

6 Q This is a Rail Safety Coordination Meeting
7 dated October 2nd, 2'13, at 11:00 a.m. at the Village
8 of Elwood.

9 Were you present at this meeting?

10 A Yes.

11 JUDGE KIRKLAND-MONTAQUE: I think your mic is
12 off. Is there a button on top?

13 THE WITNESS: Yeah. It's on, your Honor, but
14 it's not working.

15 Can you hear me now?

16 JUDGE KIRKLAND-MONTAQUE: Yeah.

17 BY MR. KALLISH:

18 Q Let me call your attention to Page 4 of the
19 ICC Staff Exhibit 2.

20 Do you see that?

21 A Yes.

22 Q If you go down to the bottom, there is some

1 red writing that's been added to this document.

2 Do you see that?

3 A Yes.

4 Q You were here when ICC Staff testified that
5 certain amendments are made to these documents based
6 upon discussions at the meetings and then it's
7 recirculated.

8 Did you hear that?

9 A Yes.

10 Q And are you aware of that procedure
11 generally?

12 A Yes.

13 Q Okay. If you start reading, let's say,
14 where it says, "The Village Police Department has
15 also provided targeted enforcement and issued 60
16 citations to truck drivers from July to
17 September 2'13. This is with eight total patrol
18 officers. The Village has also contacted larger
19 trucking companies to discuss the concerns, but the
20 Village notes that the majority of the truck drivers
21 using Strawn Road are independent and may not be
22 familiar with the area."

1 And then there -- in red it says, "The
2 police also indicated that when there is no physical
3 police presence at the crossing, violations spike?"

4 Do you see that?

5 A Yes.

6 Q Did you say that?

7 A I don't recall saying that.

8 Q Okay. Was there someone else at the
9 meeting who would be designated as "police" in this
10 document other than yourself?

11 A Yeah, I believe Police Commander Pat Kerr
12 was also at this meeting with me.

13 Q Do you know, is he the one that made this
14 comment and then it got recorded onto this document?

15 A No, I don't know who made this comment.

16 Q Okay. Would you disagree with this
17 comment?

18 MR. STREICHER: Objection, your Honor. There's
19 a mischaracterization. The testimony -- the direct
20 testimony was relating to the presence of the Will
21 County Sheriff. This memorandum is October of 2013,
22 which is prior to the time that the Will County

1 Sheriff was marshaling funerals on Highway 53.

2 MR. KALLISH: Your Honor, I believe the
3 question that I asked him was, does he believe that a
4 police presence at the Walter Strawn crossing is a
5 deterrent to signal violations. I didn't specify
6 whether that was Will County Sheriff's Department or
7 any other department. It's a general question.

8 JUDGE KIRKLAND-MONTAQUE: Overruled. I think
9 he answered that earlier today.

10 You may answer the question.

11 THE WITNESS: Could you repeat the question,
12 please?

13 BY MR. KALLISH:

14 Q So I'm asking you whether you disagree with
15 the statement that's highlighted in red attached to
16 Exhibit 2 at the bottom of Page 4 that states, "The
17 police also indicated that when there is no physical
18 presence -- no physical police presence at the
19 crossing, violations spike."

20 A So my opinion on that would be that that
21 could occur. You know, we're talking about driver
22 behavior here. And sometimes the positioning of the

1 police officer can help change someone's behavior,
2 but then also tolerance levels change. People become
3 accustomed to observing an officer in a situation and
4 you still continue to see a lot of violations.

5 And, you know, in this case, my
6 opinion would be in certain conditions, certain
7 situations, you could see a spike if someone -- a
8 marked unit was removed from the area.

9 Q When you were going through Group
10 Exhibit 7, the numerous violations that were recorded
11 by Elwood police officers, do you recall that there
12 frequently was a reference in those notations that
13 the truck driver violated the first signal? Do you
14 recall that?

15 A Yeah, I recall notations of that.

16 Q In those instances in which violations were
17 noted by Elwood police officers, is it possible that
18 the violation that was being noted by -- or
19 designated as a violation of the first traffic signal
20 was indicating that the truck violated the presignal
21 and that at the time that the presignal was perhaps
22 read, that the advancing signal was green?

1 A That's possible.

2 Q And in that circumstance, a trucker would
3 believe that he is advancing into the intersection
4 with authority based upon the advanced green light
5 and would not believe that he is violating the
6 signal.

7 Is that -- would you agree with that?

8 MR. STREICHER: Objection as to what another
9 person believed.

10 JUDGE KIRKLAND-MONTAQUE: Sustained.

11 BY MR. KALLISH:

12 Q Do you know whether, in the instances in
13 which your officers had reported violations at the
14 Walter Strawn crossing involving the first signal --
15 whether the clearing signal or the signal that was in
16 the intersection in front of the presignal was, in
17 fact, green?

18 A I don't know the answer to that.

19 Q Would that -- would it be a reasonable --
20 based upon your years as a police officer and your
21 familiarity with traffic enforcement, would it be a
22 reasonable assumption that when there is police

1 presence in an intersection, a trucker would not
2 purposefully violate a light, and it's more likely
3 that they believe that they had the advanced green
4 light and that's why they violated the signal?

5 MR. STREICHER: Objection. Speculation.

6 JUDGE KIRKLAND-MONTAQUE: I think you're asking
7 the same question another way that you asked earlier,
8 which I sustained the objection.

9 BY MR. KALLISH:

10 Q Do you believe that some of the violations
11 that were noted by your officers in Group Exhibit 7
12 were not really trucks blatantly violating a signal,
13 but was based upon driver confusion because of the
14 configuration of the lights at the Walter Strawn
15 crossing?

16 MR. STREICHER: Objection as to what another
17 driver thought.

18 BY MR. KALLISH:

19 Q And this is based upon your experience with
20 traffic violations.

21 MR. STREICHER: Still speculation.

22 JUDGE KIRKLAND-MONTAQUE: I think there's

1 another way you can ask this question. I don't know
2 if you've quite gotten to it yet. So give it one
3 more shot.

4 Let me -- I think what you're asking
5 is, is it possible that the violations are due to
6 confusion.

7 MR. KALLISH: Yes, that's what I'm asking.
8 Thank you, your Honor.

9 JUDGE KIRKLAND-MONTAQUE: That's the question.
10 Can you answer that one?

11 THE WITNESS: Yes, your Honor, I can. I think,
12 yeah, some violations are due to confusion by
13 motorists.

14 BY MR. KALLISH:

15 Q So does that change your opinion that
16 police presence does not cause better compliance with
17 traffic signals?

18 A No -- increased. No, it does not.

19 Q Why not?

20 A Because, as I just stated, that can be some
21 of the issues, driver confusion. That's why in our
22 police department, we allow officers discretionary

1 enforcement authority so that they can determine if
2 that, in fact, is an issue.

3 And based on my experience -- my many
4 years of experience and also being at this
5 intersection, you do have motorists -- commercial
6 motor vehicle operators who will violate the traffic
7 signals blatantly without due regard to safety or the
8 presence of uniformed officers there.

9 Q What type of presence is currently at the
10 Walter Strawn crossing by Elwood police on a daily
11 basis?

12 MR. STREICHER: I'm sorry, Judge. I apologize.
13 I didn't hear the question.

14 BY MR. KALLISH:

15 Q What is the presence of the Elwood police
16 on a daily basis currently at the Walter Strawn
17 crossing?

18 A So currently we provide 24/7 regular
19 patrols through that area.

20 Q And when you say "regular patrols," does
21 that mean current presence there the entire time or
22 they come and go?

1 A They come and go.

2 Q So there is a considerable period of time
3 when there is no police presence at the Walter Strawn
4 crossing; is that correct?

5 MR. STREICHER: Objection. Mischaracterization
6 of his testimony. He didn't say "considerable" time.
7 He said, "They come and go."

8 JUDGE KIRKLAND-MONTAQUE: Reask that question,
9 please.

10 BY MR. KALLISH:

11 Q So during a typical -- strike that.

12 Currently at the Walter Strawn
13 crossing, there are periods of the day when there are
14 no police present at the crossing; is that correct?

15 A That can occur.

16 Q If there was a constant police presence at
17 the Walter Strawn crossing, would you expect traffic
18 violations to be reduced so that there was an
19 officer, a marked officer, there all the time?

20 A No.

21 Q Have there been any discussions with the
22 Will County Sheriff's Office to allow them to enforce

1 traffic violations if they see them at the Walter
2 Strawn crossing?

3 A I haven't had any discussions like that
4 with them.

5 Q Is there anything that would prohibit them
6 from enforcing traffic violations at the Walter
7 Strawn crossing?

8 MR. STREICHER: Objection. Foundation. The
9 presence of the Will County Sheriff there is pursuant
10 to an agreement with the Union Pacific and other
11 authorities, and the Court's been advised of that. I
12 don't think there's a foundation for this.

13 JUDGE KIRKLAND-MONTAQUE: The question was
14 what?

15 MR. KALLISH: Whether the chief of the Elwood
16 police knows of any restriction that would prevent
17 the Will County sheriffs from enforcing traffic
18 citations at the Walter Strawn crossing.

19 JUDGE KIRKLAND-MONTAQUE: Overruled. I'll
20 allow the question and the answer.

21 THE WITNESS: Thank you, your Honor.

22 I don't know of any restrictions.

1 BY MR. KALLISH:

2 Q Generally when there's an increased police
3 presence and an increased issuance of citations, does
4 illicit traffic behavior typically reduce, in your
5 experience?

6 A Yes, it can.

7 Q Do you believe that different protocols
8 provided to the Will County Sheriff would make their
9 presence at the Walter Strawn crossing more
10 effective?

11 A Yes.

12 Q Have you reached out to the Will County
13 Sheriff in order to establish better protocols for
14 policing the Walter Strawn crossing?

15 A Yes.

16 Q And has the Sheriff's Office been receptive
17 to your suggestions?

18 A No.

19 MR. KALLISH: That's all the questions I have.

20 JUDGE KIRKLAND-MONTAQUE: Okay. Mr. Streicher,
21 redirect, but we need to be out of here by 6:30.

22 MR. STREICHER: I have one question.

1 JUDGE KIRKLAND-MONTAQUE: Okay.

2 REDIRECT EXAMINATION

3 BY

4 MR. STREICHER:

5 Q Chief Hayes, you were asked a number of
6 questions by counsel for CenterPoint as to permit
7 issues and the classifications of different roads,
8 including Laraway.

9 My question to you is, are you aware
10 of anything that would prevent an application for an
11 overweight permit on those roads? Are you aware of
12 anything that would prevent an application for an
13 overweight permit on those roads?

14 A No, I'm not.

15 MR. STREICHER: Thank you.

16 MS. ANDERSON: Your Honor, could I be permitted
17 to ask four questions?

18 JUDGE KIRKLAND-MONTAQUE: Okay. But 6:30 we're
19 out of here.

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RECROSS-EXAMINATION

BY

MS. ANDERSON:

Q Mr. Hayes, Question No. 1. You stated in response to Mr. Shumate -- thank you.

You stated in response to Mr. Shumate that you agreed with previous testimony concerning the movement of the stop bar and that having an impact on the sight lines of motorists.

There were two previous witnesses that talked about the stop bar placement: Mr. Vercruysse and Ms. Hollingsworth. Were you in agreement with Mr. Vercruysse or Ms. Hollingsworth?

A I was in agreement with Brian Vercruysse.

Q Question No. 2. With respect to the statement on Page 4 in Illinois Commerce Commission Staff's Exhibit 2 concerning a spike in violations when there was no police presence -- traffic violations at the Strawn Road crossing, do you know whether -- do you personally know whether in 2013, at the time those minutes were revised, whether there was such a spike when law enforcement officers were

1 not present at that time?

2 A Yes, I was aware that at that time when
3 officers left the intersection, we did see a spike.

4 Q Question No. 3. As of the date of today's
5 administrative hearing, do you personally know
6 whether there is a spike in traffic violations at the
7 intersection of Illinois Route 53 and Strawn Road
8 when the intersection is either not being monitored
9 by the Will County Sheriff's police or by other
10 police that might be present?

11 A I personally do not know.

12 Q I'm going to -- Question No. 4, I'm going
13 to give you a scenario.

14 If you had officers responding to a
15 violation of a traffic law where you had a vehicle in
16 violation go through a red light as they faced
17 eastbound on Walter Strawn Drive, going through a red
18 presignal when there is a green light at the
19 downstream traffic signal for the actual intersection
20 of Illinois Route 53 and Strawn Road, are you aware,
21 based on your review of the statements that your
22 fellow officers have made to you about their patrol

1 activities, whether any of the motorists indicated to
2 you that the source of confusion that caused them to
3 violate the red light at the presignal was because
4 they observed a green light at the downstream traffic
5 signal and they thought they were allowed to go
6 through?

7 MR. KALLISH: Your Honor, I'm going to object
8 to form and foundation.

9 JUDGE KIRKLAND-MONTAQUE: Yeah, can you tighten
10 that one up? I got lost.

11 BY MS. ANDERSON:

12 Q Do you know whether any of the motorists
13 are violating the red light at the traffic signal
14 because they see the green light at the intersection
15 and they think they're permitted to go?

16 MR. KALLISH: Object to foundation.

17 MS. ANDERSON: Your Honor, the foundation was
18 based in the earlier testimony.

19 MR. KALLISH: To the extent that he was
20 personally there, your Honor, but I don't know that
21 he -- you know, I think she'd have to establish that
22 he inquired of his officers that --

1 JUDGE KIRKLAND-MONTAQUE: This is about the
2 officers?

3 MS. ANDERSON: Yeah, I'm asking whether he has
4 been made aware through his officers. I mean, he
5 read pages and pages of officers' reports indicating
6 their patrol activities at this intersection, and he
7 testifies he believes some of the violations in those
8 reports are due to confusion.

9 I'm asking him whether the confusion
10 specifically resulted from having a green downstream
11 light when you had a red light at the presignal
12 heading eastbound on Walter Strawn Drive.

13 JUDGE KIRKLAND-MONTAQUE: I'll overrule the
14 objection and I'll -- answer the question if there's
15 an answer.

16 BY MS. ANDERSON:

17 Q Okay. Do you need me to reask the
18 question?

19 A No. My answer is yes.

20 MS. ANDERSON: Your Honor, I have no further
21 questions.

22 JUDGE KIRKLAND-MONTAQUE: I have one question.

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EXAMINATION

BY

JUDGE KIRKLAND-MONTAQUE:

Q How do you know if there's a spike in the absence of police presence? Are you relying on cameras?

A Yeah, how we determine that, your Honor, is by positioning unmarked officers in a covert fashion in the intersection. As a matter of fact, during these details, that's exactly what was taking place.

JUDGE KIRKLAND-MONTAQUE: Okay. Thank you.

Mr. Streicher, nothing more?

MR. STREICHER: Nothing further, Judge.

JUDGE KIRKLAND-MONTAQUE: Okay. I think that is it.

Do you have anything further?

MR. KALLISH: Nothing further, your Honor.

JUDGE KIRKLAND-MONTAQUE: Okay. So we're going to adjourn for the evening and reconvene tomorrow at 11:00. We're going to start again. We only have 2 hours tomorrow, so you may want to -- now, Mr. Shumate is up tomorrow with his witness to

1 continue with the rest of his presentation. Okay?

2 MR. SHUMATE: I'd like to withdraw my witness
3 Richard Wazak, senior special agent, one of our
4 police officers, because we've had enough testimony,
5 I believe, with regard to what the Will County
6 Sheriffs have done, and that's all he was going to
7 testify to.

8 JUDGE KIRKLAND-MONTAQUE: Okay.

9 MR. STREICHER: Judge, off the record.

10 JUDGE KIRKLAND-MONTAQUE: Off the record,
11 please.

12 (Whereupon, a discussion was had
13 off the record.)

14 JUDGE KIRKLAND-MONTAQUE: Okay. Thank you all.

15 (Whereupon, the above-entitled
16 matter was continued to
17 October 29th, 2014, at
18 10:00 a.m.)

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