

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Village of Burnham, Cook County, Illinois, an Illinois Municipal Corporation, Petitioner,

v.

T14-0067

Indiana Harbor Belt Railroad Company, CSX Transportation, Inc., Norfolk Southern Railway Company, and the Chicago South Shore & South Bend Railroad, Northern Indiana Commuter Transportation District, and the Illinois Department of Transportation, Respondents.

Petition for an order of the Illinois Commerce Commission to permit the construction and maintenance of a multi-use trail bridge over the tracks of the Indiana Harbor Belt Railroad, CSX Transportation, Inc., and the Norfolk Southern Railway Company and to permit the construction of an at-grade crossing of a multi-use trail at the track of the CSX Transportation, Inc. at Green Bay Avenue (near CSX AAR/DOT #163651M, railroad milepost 1.33) and to permit the reconstruction of at-grade crossings of tracks of the CSX Transportation, Inc., Norfolk Southern Railway Company, and the Chicago South Shore & South Bend Railroad at Burnham Avenue, all located in the Village of Burnham, Cook County, Illinois.

STAFF RESPONSE AND POSITION
FEBRUARY 26, 2016

Now comes the Staff of the Commission (Staff), and in response to the Village of Burnham’s (Village) Petition dated, May 27, 2014, respectfully submits the following:

On May 27, 2014, the Village of Burnham filed the above-captioned verified petition with the Illinois Commerce Commission (Commission) naming as Respondents the Indiana Harbor Belt Railroad Company (IHB), CSX Transportation, Inc. (CSX), Norfolk Southern Railway Company (NS), and Chicago South Shore & South Bend Railroad (CSS) seeking authority to construct a pedestrian-rail overpass and modify highway-rail grade crossings in the Village of Burnham, Cook County, to help eliminate what is commonly referred to as the Burnham Greenway Gap, a missing or gapped section of the Burnham Greenway multi-use trail south from State Street north to Avenue O. The Village seeks to extend the Burnham Greenway within its corporate limits from State Street north to Brainard Avenue. At the intersection of Burnham Avenue and Brainard Avenue, an

Illinois Department of Natural Resources (IDNR) project is planned that will continue construction of the trail north to Avenue O to complete the Burnham Greenway multi-use trail (Burnham Greenway Trail).

On August 5, 2014, and November 13, 2014, Status Hearings were held before a duly appointed Administrative Law Judge (ALJ) in the Commission's Chicago office. On January 30, 2015, the Village filed an Amended Petition adding the Northern Indiana Commuter Transportation District (NICTD) and the Illinois Department of Transportation as Respondents (IDOT). Additional Status Hearings were then held on March 10, 2015, May 19, 2015, August 4, 2015, October 8, 2015, December 8, 2015, and January 26, 2016. To provide a summary of Staff's Position and comments provided at the Status Hearing on January 26, 2016, and other Status Hearings, Staff offers the following:

1. The proposed scope of work by the Village includes the construction of a pedestrian bridge to carry the Burnham Greenway Trail over the tracks of the IHB, CSX, and NS approximately 600' feet north of State Street. The construction of the trail would then continue north along Commonwealth Edison right-of-way for approximately 4000 feet to a new bridge over the Grand Calumet River. For another 300 feet north the trail would continue to the Green Bay Avenue at-grade crossing with the CSX industry track (designated as AAR/DOT #163651M, railroad milepost 1.33). Modifications to the sidewalk on the south side of the Green Bay Avenue grade crossing of CSX's track would be made to allow pedestrians using the trail to stay on the sidewalk and allow bicyclists using the trail to transition to an on-street route along Green Bay Road, Entre Avenue, and Chippewa Avenue east to Burnham Avenue where there is an existing sidewalk. The sidewalk would be converted to a wider multi-use trail design and continue north on Burnham Avenue over the three (3) grade crossings with the tracks of the CSX, NS, and CSS/NICTD leading to the intersection with Brainard Avenue.
2. The maps providing the project location and the proposed Burnham Greenway Trail alignment through the Village are included herein as Exhibit A. These documents were previously provided to the parties at the Status Hearing and via e-mail on December 8, 2015.
3. Staff supports the Village's Petition seeking authorization for a pedestrian bridge over the tracks of the IHB, CSX, and NS, and providing the Burnham Greenway Trail connection as presented in Exhibit A.
4. The pedestrian bridge is identified in the Commission's Crossing Safety Improvement Program, and Staff supports the use of Grade Crossing Protection Fund (GCPF) assistance, in an amount not to exceed \$2,000,000, to reimburse the Village for eligible project costs associated with the pedestrian bridge over the IHB, CSX, and NS tracks.
5. The Burnham Avenue grade crossing of CSX's track, designated as

AAR/DOT #163649L, railroad milepost 1.07, consists of a single industry track with up to 2 freight trains per day at a maximum train speed of 5 mph.

6. The Burnham Avenue grade crossing of NS's tracks, designated as AAR/DOT #478708J, railroad milepost 505.82, consists of two mainline tracks with an average of 35 freight trains per day at a maximum train speed of 25 mph.
7. The Burnham Avenue grade crossing of the CSS/NITCD tracks, designated as AAR/DOT #867226H, railroad milepost 70.10, consists of two mainline tracks with 46 passenger trains at a maximum speed of 25 mph and approximately 5 freight trains per day at a maximum speed of 20 mph.
8. Burnham Avenue consists of two lanes in each direction with medians at the aforementioned grade crossings. There are approximately 11,600 vehicles per day.
9. Staff has participated in numerous field reviews for the Village's proposed project, as well as other projects involving the at-grade crossings on Burnham Avenue. The other Burnham Avenue projects, which were funded by IDOT and/or via the Federal Highway Administration's Railway-Highways Crossing (Section 130) Program, include the following:
 - a. Renewal of the surfaces at the NS and CSS/NICTD crossings. The work was completed in the summer and fall of 2015 by the NS and NICTD;
 - b. The addition of roadway gates and upgraded railroad warning devices at the CSX crossing, completed in February 2016;
 - c. Modifications to the warning devices at the NS and CSS/NICTD crossings in conjunction with the improvements at the CSX crossing to allow for interconnection of all the warning devices and interconnection to the traffic signals at the intersection of Burnham Avenue and Brainard Avenue;
 - d. The addition of "Do Not Stop On Tracks" signs with supplemental flashing amber beacons at the NS tracks for northbound motorists, as well as modifying curbing, and reinstating pavement marking on the roadway. This work is has not been started.
10. Attached herein as Exhibit B, is the document titled "Commission Staff Field Inspection - October 1, 2015", providing observations and recommendations related to the existing sidewalk, crossing surfaces, warning devices, rail appurtenances, and vegetation. This document was previously provided to the parties at the October 8, 2015, Status Hearing

and via e-mail on October 15, 2015.

11. Staff is of the opinion that the Village's proposed work along Burnham Avenue will provide a safety and overall improvement as compared to the existing sidewalk. A wider path at the crossings will provide for a better angle of approach over the rails for current and future pedestrians and cyclists, and the project would eliminate the drop offs, damage, and irregularity of the existing sidewalk.
12. The surface at the Burnham Avenue crossing of CSX's track is in poor condition with respect to the sidewalk, and does not meet the minimum requirements of 92 IAC 1535.203, which states "At crossings where there are sidewalks, either the crossing proper shall include the sidewalk areas or separate sidewalk crossings of a width consistent with that of the sidewalk approaches shall be provided conforming with provisions of this Section as to surface." The roadway portion of the CSX crossing surface consists of rubber panels and meets the minimum requirements of 92 IAC 1535.203, while the sidewalk portion consists of an uneven mix of timber, asphalt, and ends of the rubber crossing panels extending from the roadway.
13. The catenary pole or railroad warning devices at the Burnham Avenue crossing of the CSS/NICTD tracks should be relocated to allow for a greater path width than what has been proposed by the Village. NICTD should provide an estimate for this work so that the Village may revise its plans, overall cost estimate, and funding needs.
14. Staff believes that pedestrian gates should be installed at the Burnham Avenue crossings of the CSX, NS, and CSS/NICTD tracks to provide a greater level of safety and reduce confusion as to which track/crossing a train may be on when approaching Burnham Avenue. The operation of the railroad warning devices are described in Exhibit C, attached herein. This exhibit provides for the variations associated with the location of a train, gate activation, and warning time and provides the differences with and without pedestrian gates. The installation of pedestrian gates does not increase the needed warning time, or complexity associated with the roadway warning devices; items which are addressed by the projects identified in Number (8) of this Response.
15. In developing Exhibit C, Staff reviewed various documents detailing the history of the Burnham Avenue crossings and the projects identified above in relation to this proceeding. The main alterations to the crossings over time are as follows:
 - a. 1940's – 1960: the Chicago and Western Railroad Company owned

and operated four additional tracks that were located between the current NS and CSS/NICTD crossing. At the time, a third track was present at the CSS/NICTD crossing for a total of nine (9) tracks. The Burnham Avenue crossing of CSX's track was in its present location with the single industry track 130 feet south, equipped with passive crossbuck signs. The track and roadway layout is presented in Exhibit D, attached herein. The crossing warning devices were manually operated from a tower and consisted of four quadrant gates that covered the entire roadway and sidewalk on the west side of Burnham Avenue. The tower operator would also ring a bell using a rope, and could control the traffic signals at the Burnham Avenue and Brainard Avenue intersection. Total rail traffic at that time was stated at 160 trains per day at a maximum of 50 mph. The average daily traffic on Burnham Avenue was approximately 15,500 vehicles per day.

- b. July 3, 1968 - ICC Order 52638, required the installation of automatic flashing light signals and gates with interconnection to the traffic signals at the Burnham Avenue and Brainard Avenue intersection. All devices were to be controlled by the newest form of circuitry to minimize unnecessary and extended activation of the crossing's warning devices. The warning devices, which treated all tracks as one crossing, were placed in service on August 20, 1970.
- c. February 9, 1987 – removal of three (3) tracks by the Chicago and Western Railroad Company allowed for modification and improvement of the crossing warning devices. The Form 2 and Form 1 under 92 IAC 1535.400 for this work is attached herein as Exhibit E. The maximum train speed identified at any of the crossings is now 25 mph.
- d. August 4, 1993 – Commission Order in Docket T92-0013 allows for the widening of Burnham Avenue by IDOT, relocation of the warning devices, and removal of one CSS/NICTD tracks. The NS and CSS/NICTD are now separated into two (2) but interconnected crossings, each with its own warning devices.
- e. 1999 – modifications to the traffic signal interconnect circuit.
- f. Present – Staff is currently reviewing with NICTD's Engineering Department the design warning time, event logs, operating rules, and any design controls that affect the amount of warning time that can be provided at crossing currently, and as it relates to any proposed increase in train speeds, which was identified as a desire by NICTD.

16. On February 12, 2016, NICTD provided a draft indemnity and insurance

agreement and a license agreement for review by the parties. Staff does not support the use of a license agreement, the purchase of an insurance policy by the Village for the trail, indemnification, or termination clauses that identify closure of the trail. Staff believes the Commission has jurisdiction to set the construction and maintenance terms in this matter to insure immediate and continued public safety and convenience at the Burnham Avenue crossings.

17. Consistent with recent ICC dockets related to sidewalk, multi-use paths, and pedestrian gates, the Village should be responsible for the installation costs for the path and pedestrian gates. The Village should also be responsible for costs associated with damage or vandalism to the pedestrian gates. The railroads should be responsible for the routine maintenance and costs associated the pedestrian gates, consistent with the maintenance requirements for the roadway gates.
18. Staff's position regarding the path and pedestrian gates at the Burnham Avenue rail crossings is further solidified with any future proposals to increase train speed.
19. During the course of this proceeding, NICTD hired an engineering firm to study potential alignments for a pedestrian bridge to provide a more direct link north and avoid the Burnham at-grade crossings. Staff has identified that an application may be submitted for such a pedestrian bridge, but that continued coordination with Commonwealth Edison is needed to determine feasibility. While this would account for Burnham Greenway Trail and Hegewisch Station users, Staff does not believe that such a structure would negate the need for pedestrian accommodations along Burnham Avenue over the CSX, NS, and CSS/NICTD at-grade crossings.
20. In completing this filing, Staff conducted a follow-up field review of the Burnham Avenue grade crossings on February 26, 2016. :
 - a. Pedestrians and cyclists were present, and evidence of additional pedestrian traffic was found with tracks in the snow remaining on the sidewalk from a recent storm.
 - b. Brush clearing is needed in the southwest quadrant of the Burnham Avenue crossing of the CSS/NICTD tracks, as presented in Exhibit E, to provide a sight line for pedestrians, and northbound motorists at the NICTD stop bar and gate.
 - c. NS switching operations and eastbound moves need to be reviewed with Staff's Operating Practices and Rules personnel. Staff witnessed an eastbound freight train moving for 9 minutes over the crossing, and then stopped just east of Burnham Avenue clearing the

traffic lanes. With last car of the train on the crossing island circuit, the warning devices at the crossing remained active/down for five minutes before the train started up. Staff witnessed motorists going around the barrier median, down gates, and in one instance a motorist exited his car to lift the NS southbound gate.

Whereas, Staff respectfully requests the evidentiary hearing be scheduled to address the items above and move towards a Proposed Order.

Respectfully Submitted February 26, 2016,



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Certificate of Service

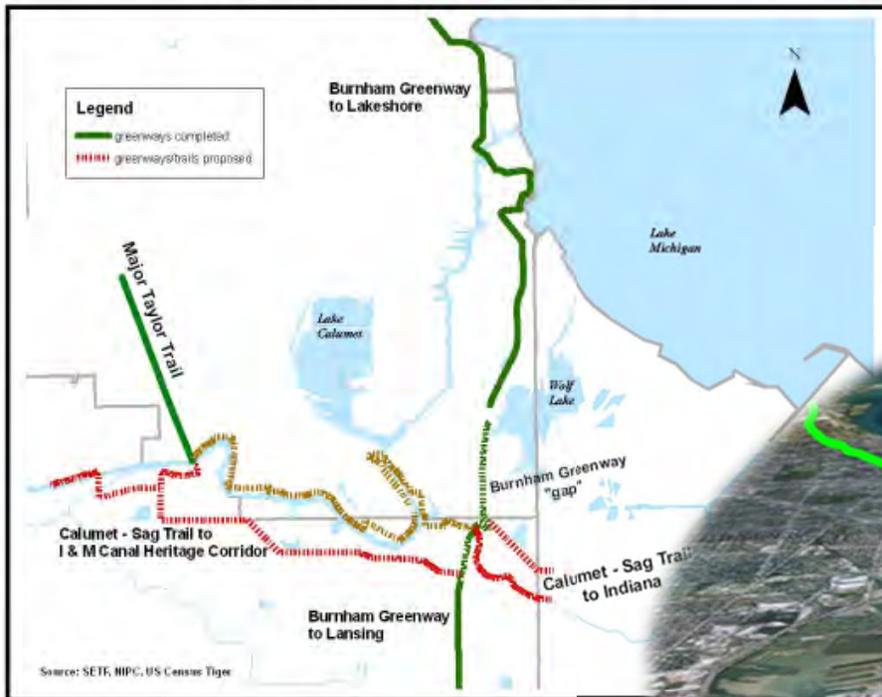
I, Brian Vercruysse, Senior Rail Safety Specialist for the Illinois Commerce Commission, hereby certify that the STAFF RESPONSE for T14-0067 was docketed on e-Docket and e-mailed to the parties listed below.

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Burnham Greenway Trail (BGT)

Burnham, Illinois | ICC Docket T14-0067 | Burnham Greenway Gap

REGIONAL MULTI-USE TRAILS

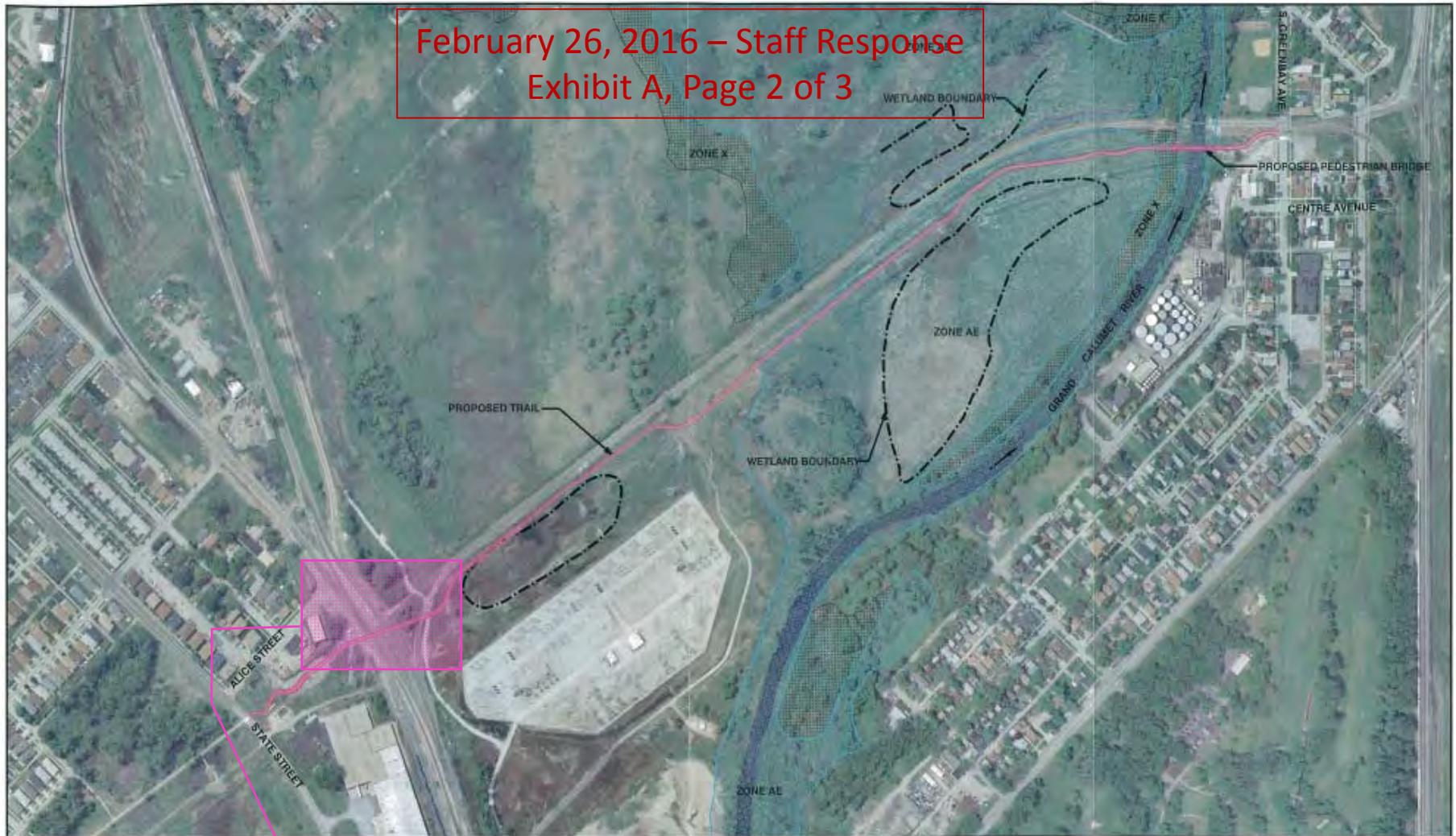


February 26, 2016 – Staff Response
Exhibit A, Page 1 of 3



Burnham Greenway Trail (BGT) – Proposed “South Segment” Burnham, Illinois | ICC Docket T14-0067 | Burnham Greenway Gap

February 26, 2016 – Staff Response
Exhibit A, Page 2 of 3



BGT - Pedestrian Bridge over IHB, NS, and CSX Railroad Tracks



Burnham Greenway Trail (BGT) – Proposed “North Segment”

Burnham, Illinois | ICC Docket T14-0067 | Burnham Greenway Gap



— IDNR – BGT Extension

February 26, 2016 – Staff Response
Exhibit A, Page 3 of 3

— BGT on West Side of Burnham Avenue
(Village project ends at Brainard Ave)

— CSS/NICTD Tracks (2)

— NS Tracks (2)

— CSX Track (1)

— BGT – On-street path

— BGT – “South Segment”



Burnham Avenue Highway-Rail Grade Crossings

Burnham, Illinois | ICC Docket T14-0067 | Burnham Greenway Gap | Staff Field Review

NICTD/CSS - AAR/DOT #867 226H RR MP 70.00

NS - AAR/DOT #478 708J, RR MP 505.82

CSX - AAR/DOT #163 649L, RR MP 1.07



Looking South at NICTD/CSS



Looking South at NS



Looking South at CSX

Commission Staff Field Inspection – October 1, 2015

PURPOSE OF REVIEW

With the NICTD/CSS and NS reconstruction of crossing surfaces complete and the CSX warning device modifications underway, Staff reviewed the crossings to catalog the changes made since the parties completed joint field reviews in early 2015.

NICTD/CSS - CURRENT CONDITIONS

Crossing surface reconstructed.

7'-9" Face of Curb to Centerline of Gate Fdn.

8'-2" Face of Curb to Centerline of Cantilever

(4'-3" is allowable per MUTCD)

Relocate RR Warning devices?

New panel edge to front of sidewalk allows for an 8' wide path.

Catenary pole near edge.

- Gravel and sidewalk clean-up needed.



NICTD/ CSS Looking South



NICTD/CSS Close-up Looking South

NS - CURRENT CONDITIONS

Crossing surface reconstructed.

New surface allows for 10' wide path.

- Sidewalk cracked
- Sidewalk edge drop-offs
- Brush needs to be cut back

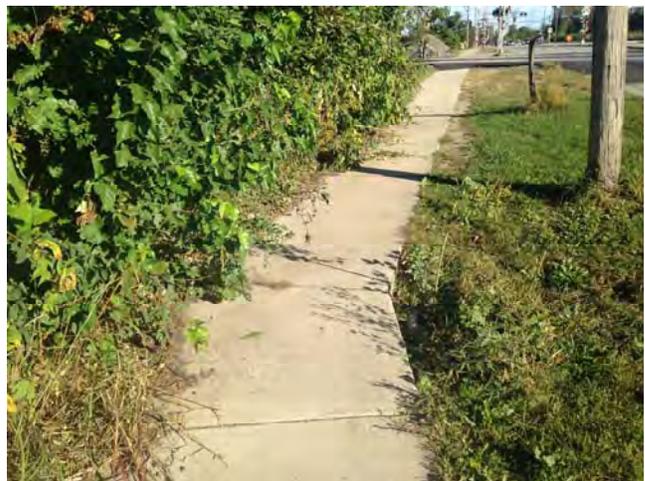
Existing Roadway Flashers & Gates (AFLS&G)



NS Looking South



NS Looking North



Looking North to NS Crossing

CSX - CURRENT CONDITIONS

14'-8" Face of Curb to Center of new cantilever. Will provide for 10' wide path.

The new roadway gate has not yet been installed. It will cover the sidewalk north of the crossing; nothing is present south of the crossing.

Bicycle tire marks are evident.

Crossing surface through the sidewalk segment needs to be repaired and widened by CSX.



Looking South to CSX



Looking South to CSX



Close-up at CSX

Train and Pedestrian Observations

8:45am to 9:00am
1 train NS, 1 pedestrian

9:15a to 9:34a - 2 bikers

9:40a - NS engine (only) through crossing
