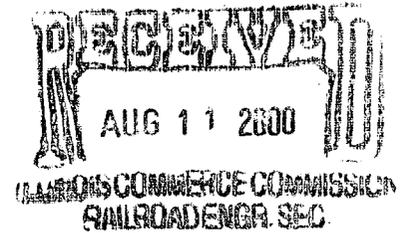


**NEIL F. FLYNN, ATTORNEY AT LAW**

**ORIGINAL**

1035 SOUTH SECOND STREET/P.O. Box 37  
SPRINGFIELD, IL 62705-0037  
217-544-0261  
FAX: 217-544-0688



August 9, 2000

Mr. Bob Berry  
Railroad Safety Specialist  
Illinois Commerce Commission  
527 East Capitol Avenue  
P.O. Box 19280  
Springfield, IL 62794-9280

**RE: T00-0015/Ellery**

Dear Bob:

In response to the Staff Recommendation and the letter dated July 31, 2000 from Edwards County Road District No. 6 (Gordon Kirkman), I am enclosing the Affidavit of William R. Hughes dated August 9, 2000.

For reasons set forth in the Affidavit, Norfolk Southern objects to the Staff Recommendation that Norfolk Southern contribute financially to the proposed connecting road construction.

If you have any questions or need any additional detail, please let me know.

Sincerely,

A handwritten signature in cursive script that reads "Neil F. Flynn".

Neil F. Flynn

NFF/cb

Enclosure

cc: All Parties of Record (see attached Proof of Service)

**DOCKETED**

**CERTIFICATE OF SERVICE**

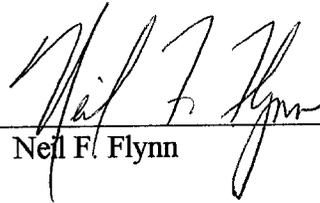
The undersigned certifies that on August 9, 2000, a copy of the foregoing instrument was served upon the following parties by depositing said instrument in the U.S. Mail, with postage thereon fully prepaid, at Springfield, Illinois, plainly addressed as follows:

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

Edwards County Road District No. 6  
C/o Gerald Longbons  
Road District Commission  
R.R. #1  
Box 283  
Albion, IL 62806

Mr. Jeff Harpring  
Local Roads & Streets  
Illinois Department of Transportation  
2300 South Dirksen Parkway  
Springfield, IL 62764

Kevin Sharpe, Director of Processing  
Illinois Commerce Commission  
527 East Capitol  
P.O. Box 19280  
Springfield, IL 62794-9280

  
Neil F. Flynn

Neil F. Flynn  
Attorney at Law  
1035 South Second Street  
P.O. Box 37  
Springfield, IL 62705  
Telephone: 217-544-0261

**AFFIDAVIT**

AFFIANT, WILLIAM R. HUGHES, being first duly sworn upon an oath, states as follows:

1. I am over 18 years of age and am under no legal disability;
2. I currently reside at 132 Windsor Court, Roanoke, Virginia and have resided continuously at that address since December, 1990 ;
3. I am currently employed as Manager Safety-Grade Crossing West for the Norfolk Southern Railway Company. I have been continuously employed by the Norfolk Southern Railway Company since March 1, 1973 . I have been employed by Norfolk Southern as Manager Safety - Grade Crossing West since February, 1997. My business address is 110 Franklin Road, SE, Roanoke, Virginia 24042 ;
4. My job responsibilities as Manager Safety - Grade Crossing West for the Norfolk Southern Railway Company include supervising grade crossings to determine if any improvements are necessary to make them safer, working with state and local government to make those improvements happen and to eliminate redundant grade crossings;
5. On or about August 2, 1999, I received in the U.S. Mail a copy of a letter dated August 2, 1999 from Michael E. Stead, then Acting Railroad Safety Program Administrator for the Illinois Commerce Commission to Richard H. Ray, Administrator of Highway Grade Crossings for the Norfolk Southern Railway Company. (A copy of that letter is attached hereto as Exhibit "A".)
6. On November 2, 1999, I received a telephone call from Joe VonDeBur, Railroad Safety Specialist at the Illinois Commerce Commission. During this telephone conversation, Mr. VonDeBur discussed the above referenced August 2, 1999 letter and the Commission's

proposed crossing safety improvement project outlined in that letter.

7. During that same telephone conversation on November 2, 1999, Mr. VonDeBur indicated that Norfolk Southern should file a Petition with the Illinois Commerce Commission seeking approval, among other things, for the permanent closure of the TR 185 crossing (DOT #724696V); the installation of automatic flashing light signals and gates at the TR 18 crossing (DOT#724699R); and for the construction of a connecting road to be located along the north side and parallel to the Norfolk Southern tracks between TR 185 and TR 36. (A copy of my e-mail message to Norfolk Southern Vice President, George Camille, dated November 3, 1999 is attached hereto as Exhibit "B".) During that telephone call, Mr. VonDeBur stated that if Norfolk Southern filed that Petition with the Illinois Commerce Commission, the State would be willing to pay 100% of the cost of the construction of a connecting road from TR 36 to TR 185. Norfolk Southern Railway Company relied upon that Commerce Commission Staff representation (i.e., that the State would pay 100% of the cost of the construction of the connecting road from TR 36 to TR 185) in the preparation of and the decision to file the Petition in Docket #T00-0015.

FURTHER, AFFIANT SAYETH NOT.

Dated: August 9, 2000

Subscribed and sworn to before me  
this 9 day of August, 2000.

Charles J. Wells

Notary Public

William R. Hughes  
William R. Hughes  
Manager Safety - Grade Crossing West for the  
Norfolk Southern Railway Company



ILLINOIS COMMERCE COMMISSION

August 2, 1999

NORFOLK SOUTHERN

Mr. Richard H. Ray  
Administrator of Highway Grade Crossings  
Norfolk Southern Railway Corporation  
99 Spring Street S. W.  
Atlanta, Georgia 30303

AUG 06 1999

C & S ENG.

R99-305

RE: DOT 724 695N, TR 36, near Albion, Edwards County, Illinois  
DOT 724 696V, TR 185, near Ellery, Edwards County, Illinois  
DOT 724 699R, TR 185, near Ellery, Edwards County, Illinois

Dear Mr. Ray:

Please consider this a formal request for a detailed cost estimate from the Norfolk Southern (NS) Railway Corporation for the installation of automatic flashing light signals and gates at DOT 724 699R. This estimate will become part of a crossing safety improvement project involving Road District No. 6 of Edwards County, Illinois and will encompass the construction of a connecting roadway between TR 36 and TR 185, north of, and parallel to, the NS right-of-way (ROW) and the closure of DOT 724 696V. CLOSURE

Please note, in order for this project to be done via the Stipulated Agreement process, the Roadway District must vacate that portion of TR 185 through the NS RCW. Otherwise, the Road District and/or the NS must file a petition for permission to close crossing 724 696V and perform the other safety improvements.

If you have any questions, please contact Joe VonDeBur, Railroad Safety Specialist, at 217/557-1286.

Very truly yours,

Michael E. Stead  
Acting Railroad Safety Program Administrator

JV

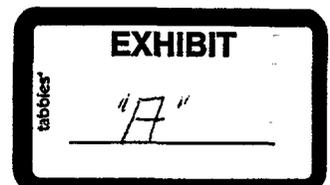
cc: W.R. Hughes, NS  
George Camille, NS

To: Joe VonDeBur

From: Rick Ray

Following estimate for this project.

527 East Capitol Avenue, P.O. Box 19280, Springfield, Illinois 62794-9280



NEIL FLYNN  
GWS JANKOWSKI  
7-31-00

061-04-486

Attn: your meeting  
w/ 8/2

MEMO

Message panel

11-03-1999 15.58.09

Command =>

Destination .... => NSC.WRHUGHES	WILLIAM R HUGHES	Received from
Memo title ..... => TR185	Page 1( 9) Line	1 Col 1( 75)

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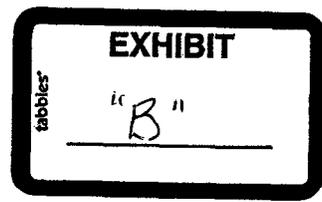
: --- Received from NSC.POWRH 7/981-4350 11-03-99 15.27 :
: -> NSC.DLDALE DAVID L DALE MW&S :
: : :
: -> NSC.MLCRANLE MELVIN L CRAWLEY TRAN/KY :
: -> NSC.GJCAMILL GEORGE J CAMILLE PUBAFF :
: George: :
: :
: On 8/2/99 Michael Stead wrote Rick Ray requesting a cost estimate for a :
: signal at DOT #724699R, TR 185 (west end), near Ellery, Edwards County. :
: Copy was sent to you and me. :
: :
: On 11/2 talked to Joe VonDeBur, 217/557-1286, IL Commerce Comm., who :
: advised that a town meeting was held and the local residents opposed :
: the closure. Stated that NS should file a petition for permission to :
: close the crossing and he would support same at the hearing. Road crosses :
: tracks at a 45 degree angle and the ADT is less than 85. State is willing :

```

F1=Help F2=Directory F3=Send F4=Print F5=Save F6=Delete F7=Bkwd F8=Fwd  
 F9=Commands F10=Actions F11=Keys F12=Close S-F5=Edit S-F7=Left S-F8=Right

*Ellery, Ill*

*Edwards County*



MEMO

Message panel

11-03-1999 15.58.50

Command =>

Destination .... => NSC.WRHUGHES      WILLIAM R HUGHES      Received from

Memo title ..... => TR185      Page    2(   3) Line    17 Col   1( 75)

: to pay 100% of constructing a connecting road from the proposed closure to :  
: TR 36, DOT #724695N. Also willing to pay 90% of signalizing TR 185 (east :  
: end), DOT #724699R. NS would pay remaining 10% in exchange for the :  
: closure. :

: Also talked to Gordon Kirkman, Wabash & Edwards County Engineer, 681/262- :  
: 4466. He also supports closure and stated he would say so at a hearing. :  
: Advised there were five people, three from the same family, at the local :  
: public hearing. :

: Can you handle the petition or would it go to Neil Flynn? If it goes to :  
: Flynn will you give him a copy of this memo from which to proceed? :

: Mr. Dale: :

: Track chart shows two private crossings between the two TR 185 crossings, :

F1=Help F2=Directory F3=Send F4=Print F5=Save F6=Delete F7=Bkwd F8=Fwd  
F9=Commands F10=Actions F11=Keys F12=Close S-F5=Edit S-F7=Left S-F8=Right