

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:)
)
VILLAGE OF ELWOOD, WILL COUNTY,)
ILLINOIS,)
 Petitioner,)
)
 vs.)
)
UNION PACIFIC RAILROAD COMPANY)
and STATE OF ILLINOIS,)
DEPARTMENT OF TRANSPORTATION,)
 Respondents.)
)
Petition for an Order of the)
Illinois Commerce Commission)
authorizing the establishment of)
a new grade crossing at East)
Access Road with the track of)
Union Pacific Railroad Company,)
in the Village of Elwood, Will)
County, Illinois directing)
thereon the installation of)
automatic protection devices and)
construction of the crossing)
proper and dividing the cost)
among the parties, and directing)
the closure of the existing grade)
crossing at Chicago Avenue with)
the track of Union Pacific)
Railroad in the Village of)
Elwood, Will County, Illinois.)

No. T01-0064

Chicago, Illinois
December 14, 2016

Met pursuant to notice at 11:00 a.m.

BEFORE:
Ms. Kirkland-Montague, Administrative Law Judge.

1 APPEARANCES:

2 ROCK FUSCO & CONNELLY, LLC, by
3 MR. PAUL D. STREICHER
4 321 North Clark Street, Suite 2200
Chicago, Illinois 60654
312-494-1000
on behalf of Village of Elwood;

5 UNION PACIFIC RAILROAD, by
6 MR. MACK H. SHUMATE JR.
7 101 North Wacker Drive, Room 1920
Chicago, Illinois 60606
312-777-2055
8 on behalf of the Union Pacific
9 Railroad Company;

10 ILLINOIS DEPARTMENT OF TRANSPORTATION, by
11 MR. LAWRENCE PARRISH
12 100 West Randolph, Suite 6-600
Chicago, Illinois 60602
312-793-2195
13 on behalf of the Illinois Department
14 of Transportation;

15 MR. BRIAN VERCRUYSSSE
16 160 North LaSalle Street, Suite C-800
Chicago, Illinois 60601
312-636-7760
on behalf of the Rail Safety Section
of the Illinois Commerce Commission;

17 MR. DOUG FELDER
18 30 North LaSalle Street, Suite 2400
Chicago, Illinois 60602
312-634-3509.
19 on behalf of the Illinois Department of
20 Transportation;

21

22

1 APPEARANCES CONTINUED:

2 MR. ED GOWER
3 HINSHAW & CULBERTSON LLP
4 400 South 9th Street, Suite 200
5 Springfield, Illinois 62701
6 217-467-4916
7 on behalf of Will County via
8 videoconference;

9 MR. MICHAEL SCOTTI
10 20 South Clark Street, Suite 300
11 Chicago, Illinois 60603
12 on behalf of CenterPoint Properties.

13 SULLIVAN REPORTING COMPANY, by
14 Christa Yan, CSR

15

16

17

18

19

20

21

22

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

I N D E X

<u>Witnesses:</u>	<u>Direct</u>	<u>Cross</u>	<u>Re- direct</u>	<u>Re- cross</u>	<u>By Examiner</u>
John Baczek	9	21			Parrish
		35			Streicher
		39			Vercruysse
		41			Gower
				45	Shumate
				47	Streicher
				50	Gower
				52	Shumate
					Streicher

E X H I B I T S

<u>Number</u>	<u>For Identification</u>	<u>Admitted</u>
Petitioner's A, B, C		19
Village Exhibit A	51	

1 JUDGE KIRKLAND-MONTAQUE: By the power vested
2 in me by the State of Illinois and the Illinois
3 Commerce Commission, I now call for hearing Docket
4 No. T01-0064. This is in the matter of the Village
5 of Elwood, Will County, Illinois, petitioner, versus
6 the Union Pacific Railroad Company and the State of
7 Illinois Department of Transportation as respondents.

8 We also have as intervenors
9 CenterPoint Intermodal, LLC and Will County,
10 Illinois.

11 May I have appearances, please. Let's
12 start with petitioner.

13 MR. STREICHER: My name is Paul Streicher, I
14 represent the Village of Elwood. Judge, do you need
15 the address information?

16 JUDGE KIRKLAND-MONTAQUE: Could you, please.

17 MR. STREICHER: My office address is 321 North
18 Clark Street, Suite 2200, Chicago, Illinois 60654.

19 JUDGE KIRKLAND-MONTAQUE: Thank you.

20 Union Pacific?

21 MR. SHUMATE: My name is Mack, M-a-c-k,
22 Shumate, S-h-u-m-a-t-e. I'm an attorney for the

1 Union Pacific Railroad Company. Our offices are at
2 is 101 North Wacker Drive, Suite 1900, Chicago,
3 Illinois 60606. 312-777-2055.

4 JUDGE KIRKLAND-MONTAQUE: IDOT?

5 MR. PARRISH: Good morning, your Honor.

6 Lawrence Parrish, Office of Chief
7 Counsel for the Illinois Department of
8 Transportation. 69 West Washington, Suite 2100,
9 Chicago, Illinois 60602. 312-793-2965.

10 MR. FELDER: Good morning, Judge. And also for
11 the Department of Transportation, my name is Doug
12 Felder, F-e-l-d-e-r. My address is 30 North LaSalle
13 Street, Suite 2400, Chicago, Illinois 60602. Phone
14 number is 312-634-3509.

15 JUDGE KIRKLAND-MONTAQUE: Mr. Scotti?

16 MR. SCOTTI: Michael, last name is S-c-o-t-t-i.
17 I represent CenterPoint Properties. My address is
18 20 South Clark Street, Suite 300. My phone number is
19 312-582-1605.

20 JUDGE KIRKLAND-MONTAQUE: Mr. Vercruysse?

21 MR. VERCRUYSSSE: Brian Vercruysse,
22 V-e-r-c-r-u-y-s-s-e, representing Illinois Commerce

1 Commission and Staff, the Rail Safety section.
2 Address is 527 East Capitol Avenue, Springfield
3 Illinois 62701, and phone Number 312-636-7760. Thank
4 you.

5 JUDGE KIRKLAND-MONTAQUE: Mr. Gower?

6 MR. GOWER: Good morning, your Honor. My name
7 is Ed Gower, G-o-w-e-r. I represent Will County in
8 this matter and with the law firm of Hinshaw &
9 Culbertson LLP. The address is 400 South 9th Street,
10 Suite 200, Springfield, Illinois 62701.
11 217-467-4916.

12 JUDGE KIRKLAND-MONTAQUE: Thank you.

13 Okay. Mr. Parrish, are you presenting
14 witnesses?

15 MR. PARRISH: Yes, your Honor.

16 JUDGE KIRKLAND-MONTAQUE: How many?

17 MR. PARRISH: We're presenting one witness
18 today.

19 (Witness sworn.)

20 JUDGE KIRKLAND-MONTAQUE: And you may proceed,
21 Mr. Parrish.

22 MR. PARRISH: Thank you, your Honor.

1 Before the Commission today is IDOT's
2 petition for the permanent closure of Strawn Road.
3 Needless to say, the road has been temporarily closed
4 pursuant to this Court's interim order dated
5 January 14 of 2015, and has been closed since that
6 time.

7 At no time since that closure has any
8 party advocated for the reopening of the closure nor
9 have they worked any improvements on the closure, and
10 the situation, since the closure has not changed, and
11 that is why we're asking for the permanent closure.
12 That's one of the reasons why we're asking for the
13 permanent closure.

14 So we're going to present Mr. John
15 Baczek. Mr. Baczek, is an IDOT employee, and I'd
16 like to begin.

17 **JOHN A. BACZEK,**
18 called as a witness herein, having been first duly
19 sworn, was examined and testified as follows:

20

21

22

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

DIRECT EXAMINATION

BY

MR. PARRISH:

Q Please state your name for the record,
please.

A Yes. John Baczek, B-a-c-z-e-k.

Q And where are you employed?

A I am employed with the Illinois Department
of Transportation Bureau of Project Studies. I am
the project and environmental studies section chief.

Q What is your current position or title?

A It's project studies section chief.

Q And how long have you been in that
position?

A I've been in that position for about nine
years.

Q And how long have you been with IDOT?

A 24 and a half years.

Q What is your educational background?

A I have a bachelor's in science of civil
engineering from Bradley University.

Q And are you familiar with the Walter Strawn

1 closing located in Elwood, Illinois?

2 A Yes.

3 Q And is the designation of that closing the
4 AAR/DOT #922023D milepost 46.26?

5 A Yes.

6 Q Okay. And in which direction does Strawn
7 Road generally run?

8 A It generally runs in a westerly direction.

9 Q As I stated earlier, today's petition seeks
10 the permanent closure of the Strawn Road crossing,
11 correct?

12 A Correct.

13 Q And is it your understanding that today's
14 hearing is being conducted pursuant to published
15 notice to the general public?

16 A Yes.

17 Q I show you what's been marked as Exhibit A,
18 and I'll pass a copy along.

19 Do you know what that document is?

20 A Yes.

21 Q Okay. And what is this document?

22 A It's a notice of hearing for this closure.

1 Q And, Mr. Baczek, can you describe the
2 current status condition of the Strawn Road closing?

3 A Yeah, currently it is closed, and the road
4 is barricaded on the west and barricaded on the east
5 of the railroad tracks.

6 Q And do you know why it's closed?

7 A It is closed prior to several ICC hearings
8 that have occurred in the past. There was some
9 safety concerns which resulted in its closure.

10 Q And those previous ICC hearings, were
11 dated -- let's see, excuse me, one second. Prior to
12 January 14, 2015, correct?

13 A Correct.

14 Q And can you describe for us what the plans
15 that your office has formulated to handle the
16 permanent closing being requested in our petition?

17 A Yes.

18 Q Okay. If you will.

19 A Following some detailed traffic studies and
20 analysis and recommendations from our consultant firm
21 working on the project, their recommendation based on
22 safety is to remove the pavement and everything east

1 of the railroad property right of way, which is along
2 the Route 53 corridor.

3 So remove the what they call the
4 radius returns of pavement, which lead up to the
5 existing crossing. We're also proposing to remove
6 the southbound right turn lane and then the
7 northbound left turn lane and remove the traffic
8 signals that are at this current location because the
9 existing traffic does not warrant retaining the
10 traffic signals that are out there.

11 And there will be some regrading of
12 the space on the west side of the roadway between the
13 railroad and Route 53 to reinstate a drainage dish to
14 make sure it drains properly.

15 Q And do the plans include any streets other
16 than Strawn Road -- Strawn Drive, I'm sorry.

17 A Ira Morgan Street is on the east side of
18 Route 53 directly across the street from Walter
19 Strawn Drive so that intersection is included with
20 this improvement but basically that intersection is
21 retained but the signals are removed from the
22 intersection and then the turn lanes are removed as

1 I've noted.

2 Q And UP owns the tracks that run along
3 Strawn -- or across Strawn Drive, correct?

4 A Correct.

5 Q And in what direction do those tracks
6 generally run?

7 A They generally run in a north/south
8 direction.

9 Q What part of the Strawn Road crossing and
10 surrounding area is under IDOT jurisdiction?

11 A IDOT has jurisdiction and responsibility
12 for the portion of -- well, I guess we'll call it
13 Walter Strawn Drive -- east of the railroad tracks
14 property line or right of way line, and that west
15 edge of Route 53, the space between the railroad
16 tracks and the edge of the roadway is what IDOT's
17 generally responsibilities include.

18 Q Once the Strawn Drive crossing is
19 permanently closed, how will it be barricaded?

20 A Once it's permanently closed, there will
21 be -- the roadway will be regraded through that area.
22 There will be no northbound left turn lane, no

1 southbound right turn lane. So there won't need to
2 be any sort of barricades on 53 because the road will
3 simple not exist.

4 We'll have a northbound right turn
5 retain that movement. We'll retain the southbound
6 left turn lane. West of the railroad tracks is
7 Elwood jurisdiction, and that is currently in a
8 closed condition.

9 Q Okay. And the property that is under IDOT
10 jurisdiction is depicted in the chart?

11 A Correct. It would be this property right
12 here. Some folks have some exhibits, but basically
13 it's that section of roadway between the railroad
14 tracks and the edge of the Route 53 roadway.

15 Q And when would you think the project would
16 be completed?

17 A Yeah, once the formal closure is approved,
18 IDOT will conduct a complete -- a preliminary
19 engineering environmental study, a Phase 1 study,
20 that involves some stakeholder engagement, working
21 with the communities to get some input on the design
22 of what the final geometric of that intersection

1 could or would look like.

2 And that is anticipated to be
3 completed early next year, maybe spring of 2017. And
4 we are working towards getting this improvement of
5 this intersection into our 2008 to 2023 highway
6 construction program at a cost of about \$350,000.
7 And right now it's not in the current program, but we
8 are going to be working towards including that.

9 So the earliest that that could be
10 completed or constructed would be late 2018 to early
11 2019. That's the earliest it could be done.

12 Q And again, the justification for the
13 project, is the safety?

14 A Safety of the -- right, there's been
15 several, I guess, things that have occurred since the
16 closure of the roadway about two years ago. At that
17 time, when we did our studies immediately after the
18 closure, we identified some safety concerns of
19 traffic increased on Laraway Road, which there were
20 schools along that corridor and that conditional
21 traffic was a concern, that truck traffic passing the
22 schools.

1 Another issue we had to too was that
2 Walter Strawn Drive provided the only overweight
3 oversized vehicle access to the Intermodal facilities
4 to the west to the state highway system to the east,
5 Route 53, those oversized overweight vehicles were
6 not allowed to use that Arsenal Road. But since that
7 time, IDOT's taken jurisdiction of Arsenal Road which
8 is secure and a continuous access for the oversized
9 overweight vehicles to the state system, which would
10 be I-55, and IDOT has since initiated a Phase 1 study
11 to evaluate safety for the Route 53 corridor from
12 U.S. 52 to West Arsenal Road and that's ongoing right
13 now.

14 And also, there's some -- movement has
15 occurred for Laraway School to potentially relocate
16 its facilities to a new site. A referendum was
17 passed locally, so that opens the door for them to
18 leave the area, which is an another potential
19 contributing factor to go ahead and formally close
20 this crossing.

21 Q Okay. And for clarification purposes, the
22 charts to which you are referring are a location map,

1 an aerial view, correct?

2 A Correct. We have a subregional location
3 map on the right here and kind of a closer up of the
4 aerial view of the existing conditions of the
5 intersection.

6 Q And I had mentioned earlier that there had
7 been previous evidentiary hearings held by the
8 Commission prior to the issuance of its interim
9 order. And those -- the dates for those preliminary
10 hearings were October 29, 2014; October 30, 2014;
11 November 5, 2014; November 6, 2014; and November 7,
12 2014. And the evidence presented at those hearings
13 led to the entry of the Intermodal by the Commission,
14 correct?

15 A Correct.

16 Q Okay. And is it IDOT's position that all
17 costs associated with the crossing closure should be
18 paid by the party that has jurisdiction over the
19 property location where the work is to occur?

20 A Correct.

21 Q Okay. And again, what has IDOT's cost been
22 per the plan that is currently in consideration?

1 A Our costs are anticipated to be \$350,000 to
2 do the roadway improvements east of the railroad
3 tracks.

4 MR. PARRISH: Okay. And I think we should mark
5 the exhibits we have presented earlier to the
6 administrative law judge.

7 JUDGE KIRKLAND-MONTAQUE: That was A, the
8 publication.

9 MR. PARRISH: Okay.

10 JUDGE KIRKLAND-MONTAQUE: So what do you
11 want --

12 MR. PARRISH: And then B and C.

13 JUDGE KIRKLAND-MONTAQUE: Okay. One which one
14 is B and C?

15 MR. PARRISH: C is the location map, B would be
16 the aerial view.

17 JUDGE KIRKLAND-MONTAQUE: So the location map
18 is Exhibit B and the aerial photo is Exhibit C.

19 MR. PARRISH: Right.

20 JUDGE KIRKLAND-MONTAQUE: Okay. So you're
21 moving to admit those; is that correct?

22 MR. PARRISH: Yes, your Honor, we are. We

1 would like to have them admitted at this time.

2 JUDGE KIRKLAND-MONTAQUE: Any objection to
3 Petitioner's Exhibits A, B, and C?

4 MR. GOWER: No objection from Will County on
5 the condition that you scan and email a copy of the
6 exhibits after the hearing.

7 MR. PARRISH: Will do, Ed.

8 JUDGE KIRKLAND-MONTAQUE: Thank you.

9 So Petitioner's Exhibits A, B, and C
10 are admitted.

11 BY MR. PARRISH:

12 Q Mr. Baczek, is there anything that I have
13 not asked you relevant to your testimony that you
14 think should be said to make the Commission aware?

15 A I think we're covered.

16 MR. PARRISH: Okay. Nothing further, your
17 Honor.

18 JUDGE KIRKLAND-MONTAQUE: All right.

19 Mr. Scotti, do you have any questions
20 for the witness?

21 MR. SCOTTI: I have no questions at this time,
22 your Honor.

1 JUDGE KIRKLAND-MONTAQUE: Mr. Shumate?

2 MR. SHUMATE: No questions at this time.

3 JUDGE KIRKLAND-MONTAQUE: Mr. Streicher?

4 MR. STREICHER: Yes, Judge, I do have some
5 questions.

6 JUDGE KIRKLAND-MONTAQUE: Okay.

7 MR. STREICHER: Initially, the Village of
8 Elwood would reserve its right to call additional
9 witnesses at a subsequent hearing regarding some of
10 the issues relating to this testimony, Judge. The
11 exhibits were not previously provided as required by
12 rule nor did we know that Mr. Baczek was going to
13 testify.

14 And I'm happy to proceed to
15 cross-examine him today, but there may be other
16 witnesses relating to some of those other issues, and
17 we would reserve our rights in that regard. But with
18 that, I would like to ask Mr. Baczek some questions
19 today.

20 JUDGE KIRKLAND-MONTAQUE: Okay.

21

22

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

CROSS-EXAMINATION

BY

MR. STREICHER:

Q Mr. Baczek, the removal of the traffic signals as well as the turn lanes at the intersection of Strawn Road and Highway 53, would that work be accomplished as part of the permanent closure or would that work await funding in late 2018, 2019?

A That would occur as part of the construction funding available in 2018, 2019.

Q So there's going to be no change to the traffic signals until that construction begins in late 2018 and 2019?

A Correct.

Q Okay. And has IDOT made a determination as to what, if any, signals or what the traffic flow -- strike that.

Has IDOT made a determination as to whether there will be any traffic signals as part of the Strawn Road, Highway 53, Ira Morgan Intersection when the road is removed and the turn lanes removed? It's IDOT's present intention to remove the section

1 of road -- Judge, may I approach?

2 JUDGE KIRKLAND-MONTAQUE: You may.

3 MR. STREICHER: And I'll try and stand to the
4 side.

5 BY MR. STREICHER:

6 Q Okay. Directing your attention to
7 Exhibit B, that shows --

8 JUDGE KIRKLAND-MONTAQUE: I'm sorry, that's
9 Exhibit C.

10 MR. PARRISH: Yes.

11 JUDGE KIRKLAND-MONTAQUE: That is C.

12 BY MR. STREICHER:

13 Q Directing your attention to Exhibit C,
14 which is an aerial photograph showing Walter Strawn
15 Drive and the intersection of Highway 53 --

16 A Correct.

17 Q -- you're familiar with that? Do you see
18 it?

19 A Yes.

20 Q And on the east side of Highway 53, the
21 continuation of what would be Walter Strawn Drive is
22 called Ira Morgan Street; is that correct?

1 A That's correct.

2 Q Has IDOT made a determination as to what,
3 if any, signals will be utilized once the
4 construction is complete for removal of the present
5 signals and turn lanes?

6 A Correct. The traffic signals that are
7 existing there today will be removed and not replaced
8 once the improvements are completed.

9 Q And what, if any, decisions have been made
10 by IDOT regarding the configuration of what
11 directions vehicles will be able to turn if they are
12 proceeding either northbound or southbound on Highway
13 53?

14 A We have developed a preliminary plan that
15 restricts -- well, a northbound right turn lane would
16 remain, right turn access to Ira Morgan would remain,
17 southbound 53 to Ira Morgan would remain, westbound
18 Ira Morgan to northbound right turn lane would
19 remain.

20 Q So if I am traveling northbound on
21 Illinois 53, will I be able to turn eastbound on Ira
22 Morgan?

1 A Yes.

2 Q If I am traveling southbound on Highway 53,
3 will I be able to turn eastbound on Ira Morgan?

4 A Yes.

5 Q Okay. If I am on Ira Morgan Street, will I
6 be able to turn northbound on Highway 53?

7 A Yes.

8 Q If I am traveling westbound on Ira Morgan
9 Street will a vehicle be able to turn southbound on
10 Highway 53?

11 A No, they will not.

12 Q What is the basis of that determination?

13 A Basically that determination is safety.
14 With the removal of the traffic signal we want to
15 ensure that there isn't a conflict with a vehicle
16 making a movement across a previously signalized
17 intersection against high speed traffic.

18 Q You're aware that there's an industrial
19 facility on Ira Morgan Drive north of Ira Morgan, and
20 east of Highway 53 known as Bissell; is that correct?

21 A Correct.

22 Q And Bissell has trucks that enter and leave

1 its facility?

2 A Yes.

3 Q Okay. How will a truck proceeding
4 westbound on Ira Morgan be able to turn southbound on
5 Illinois 53?

6 A They would not be able to. They would have
7 to make a right turn lane.

8 Q Okay. So the only way a truck would be
9 able to turn if it's proceeding westbound on Morgan
10 Street at Highway 53 would be able to turn northbound
11 on Highway 53?

12 A Yes.

13 Q And what if a truck's destination was south
14 of that intersection, where would that truck be able
15 to turn around?

16 A It could go to Laraway Road all the way
17 north to Laraway Road.

18 Q And how far is that?

19 A It's about nine miles.

20 Q Anywhere else?

21 A It could also go to Mississippi Road, which
22 is currently -- there was a street just south of here

1 called Hoff Road, that sort of signalized
2 intersection and there's a detour out there today.
3 And any trucks or cars that want to access Hoff Road
4 to and from the east are currently utilizing a detour
5 involving Mississippi Road to the north of Ira
6 Morgan, which is about three quarters of a mile
7 turning east on Mississippi Avenue Or Street, south,
8 and then they would turn right on Old Chicago Road,
9 and then come down south, and then they would come to
10 Hoff Road and turn right or west on Hoff Road to
11 Route 53.

12 Q Okay. And Hoff Road, we can see at the
13 bottom right corner of Exhibit C, is that your
14 understanding?

15 A Correct, yeah.

16 Q Okay. So your testimony is there are three
17 ways a truck could turn around. One could be they
18 could go nine miles to Laraway Road, correct?

19 A Correct.

20 Q The second would be to use Mississippi
21 Avenue in the Village of Elwood. And the third would
22 be to use Hoff Road. How would they get to Hoff

1 Road?

2 A Well, there is no current direct access to
3 Hoff Road as of right now.

4 Q Okay. There are a number of public streets
5 that intersect Highway 53 before you get the nine
6 miles to Laraway, isn't that correct?

7 A Correct.

8 Q One of them is Mississippi Avenue, correct?

9 A Correct.

10 Q Mississippi Avenue is not a signalized
11 intersection, is it?

12 A Correct.

13 Q Okay. Mississippi Avenue is also the main
14 entrance to the Village of Elwood, isn't that
15 correct?

16 A To the west, it certainly is.

17 Q Is that a truck route?

18 A I believe it allows trucks to the east.

19 Q But not to the west into the Village of
20 Elwood?

21 A Correct.

22 Q So a truck could make a turn on Mississippi

1 Avenue into residential Elwood, where it would not be
2 a truck route. But a truck is -- nothing
3 prohibits -- if a truck was proceeding northbound on
4 Highway 53 and intended to turn left onto Mississippi
5 Road in order to turn around and go southbound on 53,
6 Mississippi is not rated for truck traffic; is that
7 correct?

8 MR. FELDER: Judge, if I may, I'd like to
9 object on relevance at this point. We're talking
10 about the closure of the crossing, which is the
11 jurisdiction of the Commission.

12 And we've discussed the preliminary
13 plans through our witness. And at this point, we're
14 getting deeper into the weeds in the highway planning
15 process and the regional highway planning process,
16 and I would just object to the relevance in this
17 proceeding.

18 JUDGE KIRKLAND-MONTAQUE: Okay.

19 MR. STREICHER: The response would be, first of
20 all, the ICC's interim order of January 14, 2015,
21 mandates that this Court investigate other
22 alternatives for traffic solutions as a part of the

1 temporary closure and conduct hearings as to that.
2 And I can -- I have the order at the desk. I can
3 certainly quote the language to it.

4 Two, Judge, is the import of this
5 examination is that it is relevant, because where
6 this is leading, Judge, is issues of safety regarding
7 where trucks are going to go now and what happens to
8 funeral processions now.

9 Because in essence what we're doing is
10 we are going to limit what happens at Strawn Road and
11 force trucks not to go northbound. But because
12 trucks want to go southbound, they're going to turn
13 in other areas on Mississippi. They're not going to
14 go nine miles to Laraway. They're going to use any
15 of the interim roads in between.

16 And the other thing we have to
17 remember is Hoff Road to the south, that's the
18 entrance to the Abraham Lincoln National Cemetery.
19 And we've already had problems there with trucks
20 using the entrance road there and driving over graves
21 in order to turn around.

22 So I think part of what this Court has

1 to decide are two issues. One is whether the
2 crossing should be permanently closed -- and the
3 Village of Elwood has no objection to that at all.
4 Two is what plans IDOT has in terms of how they're
5 going to provide for safe access. The last point is
6 that Hoff Road east of -- I'm sorry -- west of
7 Highway 53 also crosses the Union Pacific tracks.
8 And we also know that that is very soon going to be
9 high speed rail as well.

10 So it's not just what traffic is here,
11 it's where traffic is going to be funneled towards
12 including the Hoff Road railroad crossing with the
13 Union Pacific.

14 JUDGE KIRKLAND-MONTAQUE: I'm going to overrule
15 the objection. I think it's relevant to how traffic
16 will flow in the absence or once the crossing should
17 become permanent. It's relevant to know how trucks
18 will proceed in the area.

19 So continue, Mr. Streicher.

20 MR. STREICHER: Thank you, Judge.

21 BY MR. STREICHER:

22 Q Directing your attention to what would be

1 Mississippi Street, which would be at the very top of
2 Exhibit B here, is that your understanding?

3 A Yes.

4 Q You're familiar with the intersection in
5 the surrounding areas beyond what's on the map,
6 correct?

7 A Correct.

8 Q Okay. So Mississippi Road west of
9 Highway 53 is a driveway that leads to the Elwood
10 Village Hall and then directly into the residential
11 areas of the Village of Elwood; is that right?

12 A Correct.

13 Q Okay. Hoff Road to the south on the west
14 side of Highway 54 is one of the entrances to the
15 Abraham Lincoln National Cemetery; is that right?

16 A Correct.

17 Q And you're familiar that trucks have
18 already used Hoff Road to try and do turnarounds that
19 have driven over graves. You're familiar with that?

20 A Correct.

21 Q And you're also familiar with the funerals
22 that proceed southbound on Highway 53, en route to

1 the Abraham Lincoln National Cemetery; is that right?

2 A That's right.

3 Q Okay. Do you know how many intersections
4 there are northbound of Strawn Road to Laraway where
5 a truck could make a westbound turn?

6 A I don't know that answer.

7 Q Okay. There's multiple roads there; is
8 that right?

9 A Yes.

10 Q And none of them are rated for truck
11 traffic until you get to Laraway Road; is that
12 correct?

13 A That's my understanding.

14 Q And you know the trucks have used at times
15 those other roads to do turnarounds; is that correct?

16 A That's correct. But the detour is actually
17 to the east, so they're actually going up to
18 Mississippi to go east on Mississippi, then south on
19 Old Chicago and then back out at Hoff Road.

20 Q But there's also nothing that prevents them
21 from turning west into the Village of Elwood; is that
22 correct?

1 A Correct.

2 MR. FELDER: Other than marked for nontruck
3 routes?

4 MR. STREICHER: That's your question, not my
5 question.

6 MR. FELDER: I think you raised that earlier.

7 BY MR. STREICHER:

8 Q Do you know if Mississippi Road is marked
9 as a truck route or no trucks allowed?

10 A It's marked no trucks allowed.

11 Q And does that stop trucks?

12 A I don't know that answer.

13 Q But you know that trucks have turned into
14 the Village of Elwood. You testified --

15 A They have, but I don't know if that was
16 before or after any signage went up.

17 Q When did the signage go up?

18 A I don't know any of that.

19 Q Okay. Has IDOT performed any investigation
20 as to what the impact would be of retaining
21 signalization at the Strawn, Highway 53, Ira Morgan
22 intersection to allow traffic to turn in all

1 directions?

2 A The intersection does not need traffic
3 signal warrants, so the traffic signals will be
4 coming out.

5 Q My question is, has IDOT performed any
6 investigation as to what the impact of traffic would
7 be?

8 A We have not investigated that, no.

9 MR. STREICHER: Okay. I don't have any
10 further -- may I check my notes, Judge?

11 JUDGE KIRKLAND-MONTAQUE: Sure.

12 MR. STREICHER: No further questions. Thank
13 you.

14 JUDGE KIRKLAND-MONTAQUE: Mr. Baczek, I have a
15 question.

16 THE WITNESS: Yes.

17 JUDGE KIRKLAND-MONTAQUE: Is it IDOT's plan to
18 install a raised median at that intersection to
19 prevent westbound traffic from Ira Morgan to prevent
20 them from turning left to go southbound?

21 THE WITNESS: The preliminary plan does show a
22 raised kind of like what we call a pork chop island

1 to prohibit that left turn movement.

2 JUDGE KIRKLAND-MONTAQUE: Okay. Thank you.
3 That's the only question I have.

4 Mr. Vercruysse, do you have any
5 questions?

6 MR. VERCRUYSSSE: Thank you, your Honor.

7 Just a couple of as follow-up.

8 CROSS-EXAMINATION

9 BY

10 MR. VERCRUYSSSE:

11 Q Mr. Baczek, how many trucks are turning
12 left out of Ira Morgan westbound to go southbound
13 currently?

14 A Currently there's about 30 during the day,
15 actually all day long. From 6:00 a.m. to 6:00 p.m.,
16 we counted about 30 vehicles making a left -- of
17 that, there's roughly 30 percent of the vehicles are
18 trucks alone. We're anticipating roughly 10.

19 Q Let's go back to it.

20 How many vehicles are coming out
21 westbound to southbound?

22 A About 30 vehicles.

1 Q 30 vehicles total.

2 And the percentage of trucks is how
3 many?

4 A 30 percent.

5 Q 30 percent.

6 Okay. So of that during the peak
7 hour, how many trucks are turning left out of Ira
8 Morgan Drive to go southbound?

9 A Of that, we have six vehicles making a left
10 turn during the peak hour, which would be one vehicle
11 during the peak hour, maybe two tops make a left.

12 Q So potentially two trucks during the peak
13 hour?

14 A Yeah.

15 Q You were asked relative to the barrier
16 median and how the trucks would be physically blocked
17 from taking that left turn, then head southbound, in
18 your opinion, does that help with funeral processions
19 or other conflicts that could be going southbound?

20 A Yes, it would eliminate that conflict.

21 Q Going back to the discussion as far as the
22 as far as the removal of the traffic signal, you

1 noted that warrants were not met.

2 Can you explain the warrants and why
3 it is not met at this time?

4 A Yeah, there are roughly nine different
5 traffic signal warrants. I'm not a traffic expert so
6 I be able to dive too much into them. But some of
7 them are related to the raw amount of traffic, and we
8 don't have the minimum required traffic to meet the
9 traffic signal warrants for this location.

10 Q In terms of coordination with the Village
11 of Elwood or Will County regarding the use of Hoff
12 Road as a potential access point to take a left turn
13 out, can you describe any efforts by the department?

14 A Well, there is a -- I don't know. It's
15 hard to see here, but Ira Morgan, -- looking at
16 Exhibit C, Ira Morgan does curve down and intersect
17 with Hoff Road, which runs at an east/west manner.

18 Currently, Ira Morgan is a cul-de-sac
19 on its very east end right before it intersects with
20 Hoff Road. And then there is a driveway that is
21 gated, probably an emergency access point.

22 There is the potential to investigate

1 actually connecting Ira Morgan to Hoff Road. Hoff
2 Road is a county route, so this would be a county
3 jurisdictional issue, and presumably that -- you
4 know, they would need to be approached regarding a
5 potential connection to basically provide a full-time
6 opening to Hoff Road.

7 So we haven't done anything, but that
8 is something that could be done.

9 Q So the coordination has not taken place at
10 this point?

11 A Correct.

12 Q What is planned at Hoff Road as part of the
13 Department's higher speed rail line from Chicago to
14 St. Louis?

15 A Right now, it is under construction. We're
16 adding traffic signals, adding a southbound left turn
17 lane onto Hoff, and then a southbound right turn lane
18 into the cemetery.

19 Q Are you familiar with how the signals will
20 be programmed or installed for their phasing at the
21 Hoff Road, Illinois Route 53 intersection?

22 A Yes, they're anticipating to being what's

1 called split phased. So the eastbound/westbound
2 movements will get a green indicator, and then --
3 separately so the westbound will go by itself, will
4 be able to turn left through right and that will go
5 to a red. And then eastbound traffic will get a
6 green indicator which will then allow them to go left
7 through right unimpeded by any traffic coming from
8 any of the other directions.

9 Q So it's to eliminate conflicts between
10 traffic maybe west of Illinois Route 53 versus
11 traffic that may be east of Route 53 on Hoff Road?

12 A Yes, that would eliminate that conflict.

13 MR. VERCRUYSSSE: Okay. Thank you.

14 I have no further questions, your
15 Honor.

16 JUDGE KIRKLAND-MONTAQUE: Mr. Gower?

17 CROSS-EXAMINATION

18 BY

19 MR. GOWER:

20 Q Mr. Baczek, are the trucks that are
21 currently westbound on Ira Morgan that are turning
22 left onto 53 oversized overweight trucks?

1 A I don't have that answer.

2 Q Okay. Are oversized overweight trucks
3 permitted to use Hoff Road currently?

4 A Not that I am aware of. I don't believe
5 Will County allows oversized overweight trucks on any
6 of their routes ...

7 Q When would you anticipate coordinating with
8 Will County to discuss potential shifting of truck
9 traffic onto Hoff Road?

10 A Well, we will -- once this closure is
11 completed, the official closure of the crossing, we
12 would -- we are going to have a Phase 1 process for
13 the intersection, and that is an opportunity for us
14 to engage stakeholders like Elwood, property owners,
15 Will County.

16 Q When would you anticipate that engagement
17 process would occur?

18 A Well, as soon as this closure becomes
19 final. Then we can start that Phase 1 process. So
20 depending on when the closure occurs and when our
21 Phase 1 studies can be, you know, conducted, over the
22 next few months.

1 MR. GOWER: Okay. I have nothing further.

2 JUDGE KIRKLAND-MONTAQUE: Okay. Mr. Parrish,
3 do you have any redirect?

4 MR. PARRISH: No, your Honor. I have no
5 redirect.

6 JUDGE KIRKLAND-MONTAQUE: Mr. Shumate?

7 MR. SHUMATE: I reserve to ask a couple of
8 questions, and these are for clarification purposes.

9 CROSS-EXAMINATION

10 BY

11 MR. SHUMATE:

12 Q So as I understand it, the plan is that
13 Hoff Road will now be a fully signalized
14 intersection; is that correct?

15 A That's correct.

16 Q Okay. Under the plan.

17 Does the 350,000 include that work
18 down there or is that separately funded?

19 A That was a separately funded project.

20 Q Okay. And at that particular intersection
21 all traffic could go north and south or east and
22 west; is that correct?

1 A Correct.

2 Q Okay. And then I didn't catch this. The
3 Hoff Road you indicated it's a road in Will County;
4 is that correct?

5 A Correct.

6 Q And the road authority for that road is
7 Will County?

8 A Correct.

9 Q Do you know whether or not it is a truck
10 route?

11 A I believe it is a truck route.

12 Q Okay. And then the next question is if I
13 understood this correctly, there's technically
14 physical connection with this Ira Morgan Street and
15 Hoff Road. It's just that it doesn't have a full
16 open connection because it's an emergency exit, I
17 think you said?

18 A Correct.

19 Q Okay. And to make this connection, who do
20 you have to talk with in order to get the permission
21 or the authority, do you know?

22 A Will County will be the jurisdictional

1 authority on providing and allowing access to their
2 roadway system.

3 Q Are there any private parties involved or
4 is it just the County?

5 A That, I don't know.

6 Q Okay.

7 A I'm not sure if there's any property or
8 right of way that would need to be involved with
9 that.

10 Q Okay. And then if I heard your testimony
11 correctly today there's approximately 30 vehicles
12 that make the left hand turn and of that 30 percent
13 of them are trucks?

14 A Correct.

15 Q So we're talking approximately ten trucks
16 that would not be able to -- on a daily basis be able
17 to make the left hand turn?

18 A Correct.

19 Q And then the alternate would be as the
20 three alternatives or potentially this hookup with
21 Hoff Road?

22 A Correct.

1 Q And what's the reason why you wouldn't talk
2 to Will County now about that?

3 A We were going to wait till these
4 proceedings were completed.

5 MR. SHUMATE: Okay. I see.

6 Your Honor, I would ask, you know,
7 from a standpoint of a motion, that what's being
8 discussed here is really a traffic plan. And it
9 looks like there are several alternatives that are
10 physically available and can be utilized and that I
11 don't think that should interfere with whether or not
12 we get a final decision with regard to permanently
13 closing this crossing.

14 JUDGE KIRKLAND-MONTAQUE: Okay. Motion -- I
15 don't know what kind of motion that is.

16 MR. STREICHER: It's a statement. It's called
17 a statement.

18 JUDGE KIRKLAND-MONTAQUE: Thank you.

19 Mr. Streicher?

20 MR. STREICHER: First I would join with
21 Mr. Shumate. I don't think that the Court today
22 needs to make a determination as to traffic plans to

1 make decision as to whether or not the Strawn Road
2 crossing should be permanently closed.

3 And I would just put in the record
4 that the interim order does provide that the Court
5 shall conduct such further hearings as required
6 regarding long term solutions as well as to develop
7 long term solutions to address the safety concerns at
8 Strawn Road.

9 But beyond that, Judge, may I have
10 additional cross of Mr. Baczek based on the
11 subsequent testimony he gave?

12 JUDGE KIRKLAND-MONTAQUE: Sure.

13 RE-CROSS-EXAMINATION

14 BY

15 MR. STREICHER:

16 Q You testified, Mr. Baczek, that Hoff Road
17 does intersect with Ira Morgan -- I'm sorry. Hoff
18 Road does intersect with Ira Morgan Road by the
19 Bissell plant; is that correct?

20 A There is a connection, yes.

21 Q That connection is closed now at this time;
22 is that correct? Is that right?

1 A It's a gated access.

2 Q Okay. So it is not open for traffic,
3 correct?

4 A Just emergency vehicle probably.

5 Q Do you know if an emergency -- if it is
6 emergency vehicle access?

7 A Yes.

8 Q Okay. And that intersection would be
9 within the jurisdiction of Will County rather than
10 IDOT; is that correct?

11 A Correct.

12 Q Okay. You're familiar with the number of
13 funeral processions that utilize Highway 53 on an
14 average basis daily?

15 A I would have to be reminded of the number,
16 but I know it was numerous.

17 Q It's a substantial number, correct?

18 A Numerous, yes.

19 Q Have you heard between 20 and 30 funerals a
20 day?

21 A That's about right.

22 Q And those funerals would be impacted by

1 vehicles who use other roads such as Mississippi or
2 Laraway to turn in front of vehicles, funeral
3 processions, proceeding southbound, isn't that true?

4 A I suppose they would be as regards to any
5 vehicles making lefts.

6 Q But it's the funeral processions that are
7 problematic because they don't have to comply with
8 traffic signals if they are already in the
9 intersection, right?

10 A There's vehicles including trucks making
11 lefts throughout the whole corridor.

12 Q So my statement is correct then?

13 A Correct.

14 MR. STREICHER: Nothing further. Thank you.

15 MR. GOWER: I just have a couple of additional
16 questions.

17 RE-CROSS-EXAMINATION

18 BY

19 MR. GOWER:

20 Q Mr. Baczek, you had indicated that
21 currently Ira Morgan access to Hoff Road is gated.
22 Which means that you still would have to use the

1 north/south road to carry traffic from Ira Morgan
2 down to Hoff Road, correct?

3 A Correct.

4 Q What's the name of that north/south road
5 that we used?

6 A Old Chicago Road. Ira Morgan cul-de-sac's
7 right at the edge of Hoff Road. And there was a
8 gated access between Hoff Road and Ira Morgan Road.

9 Q But if you wanted to get to Hoff Road, you
10 would have to use Old Chicago Road, correct?

11 A Correct.

12 Q Do you know what the weight limits are on
13 Old Chicago Road?

14 A It's a state route, so I'm assuming
15 whatever the legal loads are allowed to use that
16 road.

17 Q Until such time as you've received with the
18 permanent improvements to the Strawn Road, Ira Morgan
19 crossing with 53, would trucks continue -- westbound
20 trucks on Ira Morgan continue to be able to make a
21 left turn onto 53?

22 A Yes.

1 MR. GOWER: Okay. Thank you.

2 Those are the only questions I have.

3 JUDGE KIRKLAND-MONTAQUE: Okay. I have one
4 additional question.

5 And because the aerial photograph only
6 shows so much on Ira Morgan going east, correct, Ira
7 Morgan going eastbound, are there any other streets
8 that run perpendicular -- I'm sorry, parallel to
9 Route 53? Is there any other way to go north if you
10 were to go eastbound on Ira Morgan toward the Bissell
11 plant, assuming that that's where that is, can you go
12 north?

13 THE WITNESS: From Ira Morgan?

14 JUDGE KIRKLAND-MONTAQUE: Yeah, is there a
15 street that intersects Ira Morgan that goes north
16 similar to Route 53 but is just east of the aerial
17 photo?

18 THE WITNESS: No. Ira Morgan is just one road
19 that dead ends -- it has no feed or connectors or
20 anything like that.

21 JUDGE KIRKLAND-MONTAQUE: So there's no
22 interconnection with another street that can take you

1 north and perhaps back out to --

2 THE WITNESS: Yeah. On the location map, you
3 can actually see this a little bit better. It's
4 right here. That's Hoff.

5 JUDGE KIRKLAND-MONTAQUE: Okay. I was just
6 wondering because I can't see it from the aerial.
7 That's the only question I had.

8 RECROSS-EXAMINATION

9 BY

10 MR. SHUMATE:

11 Q For purposes of clarification, on Exhibit C
12 for the Illinois Department of Transportation, in the
13 bottom right hand corner, that road there, that is
14 Hoff Road, correct?

15 A Yes.

16 Q Okay. And so it just continues?

17 A Right.

18 Q So they connect together?

19 A Connects right about -- you know,
20 immediately adjacent to the right about there.

21 MR. SHUMATE: Okay. That's all.

22 MR. GOWER: Your Honor, I, like Mr. Streicher.

1 I wasn't served with exhibits and didn't know
2 Mr. Baczek was going to testify today. I reserve my
3 right to ask additional questions. I don't
4 anticipate having any, but I want to consult with my
5 client before I make that decision.

6 JUDGE KIRKLAND-MONTAQUE: Okay. Fair enough.

7 MR. STREICHER: Judge, I have another overhead
8 showing the area and the intersection of Strawn as
9 well as Hoff Road where it relates to 53. And I
10 would be happy to have Mr. Baczek identify that if
11 that would be helpful to the Court in terms of how
12 Ira Morgan intersects, or we can do that at another
13 time, but ... or with permission of counsel, I can
14 just submit it to the Court and just for your --

15 JUDGE KIRKLAND-MONTAQUE: Well, if they agree,
16 if it's an accurate --

17 MR. SHUMATE: Railroad has no objection.

18 MR. FELDER: That's fine.

19 JUDGE KIRKLAND-MONTAQUE: Okay. Thank you.

20 So this will be --

21 MR. STREICHER: We can mark this as Village
22 Exhibit A.

1 JUDGE KIRKLAND-MONTAQUE: Thank you.

2 MR. STREICHER: And then do you want me to have
3 Mr. Baczek identify the intersections there for you?

4 JUDGE KIRKLAND-MONTAQUE: Yes, please.

5 FURTHER RECROSS-EXAMINATION

6 BY

7 MR. STREICHER:

8 Q Mr. Baczek, I want to show you what's been
9 marked as Village Exhibit A. And do you recognize
10 what this is showing, sir?

11 A Yes.

12 Q Okay. And could you tell the Court
13 generally what that is?

14 A Yep. Here's our intersection of 53, Walter
15 Strawn to the west, Ira Morgan to the east. Ira
16 Morgan, basically, there's like, you know, there's a
17 driveway here to a property -- I guess a lot.

18 Here's a Bissell factory, and there's
19 a cul-de-sac right here. And this right here is Hoff
20 Road and you can see, there's a little driveway
21 connection to that circular -- but that's gated,
22 probably an emergency access gate. It's fairly

1 common around the area, provides access -- two access
2 points to the facility, and then this is Hoff Road.

3 Q And then the intersection with the
4 handwritten circle that's Ira Morgan, Strawn Road,
5 and Highway 53?

6 A Yes.

7 Q And the intersection with a rectangle about
8 it, that's Hoff Road and Highway 53?

9 A Correct.

10 Q And for the record, you've identified Ira
11 Morgan eastbound of Highway 53, there is shown a
12 large square building. That's the Bissell plant?

13 A Yes.

14 Q And then the cul-de-sac, you can see, is a
15 little circle there to the side of Bissell?

16 A Yes.

17 Q And regarding the Hoff Road intersection,
18 to the west side of 53 and south of there, that would
19 be the cemetery, correct?

20 A Correct.

21 MR. STREICHER: I don't have anything further.

22 JUDGE KIRKLAND-MONTAQUE: Okay. All right.

1 MR. STREICHER: And I would offer Village
2 Exhibit A.

3 JUDGE KIRKLAND-MONTAQUE: Any objection? It's
4 another aerial photo which gives actually a more
5 eastward view of the same area including the Bissell
6 plant.

7 MR. PARRISH: No objection from IDOT.

8 MR. GOWER: No objection, your Honor. But can
9 I get a scanned copy of that exhibit, please?

10 MR. STREICHER: If I can take a photograph of
11 it before we leave today, I can distribute it to
12 everyone.

13 JUDGE KIRKLAND-MONTAQUE: Okay. We'll make
14 that happen for you, Mr. Gower.

15 MR. GOWER: Great. Thank you.

16 JUDGE KIRKLAND-MONTAQUE: Okay. All right.
17 Anything further, Mr. Parrish?

18 MR. PARRISH: No, your Honor. Nothing further.

19 JUDGE KIRKLAND-MONTAQUE: All right. Given
20 that we have two parties who want to reserve
21 cross-examination upon review of the exhibits, what I
22 suggest is that we make sure they get the exhibits,

1 you can consult with your clients, and we can either
2 set another date or I can allow you time to file,
3 make a filing of whether you want to do additional
4 cross. And if I get a filing saying you want to do
5 additional cross, I can set a hearing.

6 And then if -- but the filing would be
7 either that you want additional examination of the
8 witness or you don't. If you don't, there would be
9 no need for a hearing. I can mark the record heard
10 and taken via ALJ ruling.

11 So I guess the question is I'm leaving
12 the issues -- I'm going to leave the record open to
13 allow you the time to review the exhibits and
14 determine whether or not you would like to further
15 cross-examine the witness.

16 MR. STREICHER: I have another suggestion.

17 JUDGE KIRKLAND-MONTAQUE: Okay.

18 MR. STREICHER: I don't believe that any party
19 here objects to the permanent closure. The testimony
20 that we have elicited on cross from Mr. Baczek
21 relates to IDOT's plans for signalization down the
22 road, which he testified would not take place until

1 2018 or 2019.

2 And I'm wondering if perhaps another
3 way to deal with this would be to have another
4 interim order required allowing the permanent closure
5 of the crossing but then leave open the signalization
6 issues for further proceedings.

7 Which one, would give IDOT an
8 opportunity to coordinate with the County and other
9 municipal entities involved as to what signals would
10 look like. And then we're not holding this process
11 then either.

12 But on behalf of the Village of
13 Elwood, I would have no objection to proceeding on an
14 interim order with the permanent crossing reserving
15 issues as to signalization pursuant to the passed
16 interim order for a future date.

17 JUDGE KIRKLAND-MONTAQUE: Signalization of the
18 Strawn Road and Route 53?

19 MR. STREICHER: Yes. As well as what is being
20 planned for Hoff Road. We have the same situation
21 that initially brought us here on the petition to
22 reopen filed by Staff. And that is we have still the

1 funerals, and we have trucks which are going to be
2 still on 53 making turns onto either Hoff or
3 Mississippi or the other four or five intersections
4 before we get to that.

5 MR. FELDER: Your Honor, the Department has
6 made its position clear in earlier filings that
7 there's the jurisdictional concerns of this tribunal
8 regarding the crossing, and there's regional highway
9 traffic planning in which IDOT engages with other
10 jurisdictions from time to time as may be needed
11 depending on where roads are located.

12 We would object to proceeding on this.
13 We've already stated our objection to the
14 jurisdiction of the Illinois Commerce Commission to
15 do a regional highway planning or to oversee the
16 Department's regional highway planning on Illinois 53
17 and the surrounding roads.

18 And if we're going to proceed to a
19 closure, then the Department's position is that we
20 would close the road or close the crossing, and then
21 that the Department's planning process would be
22 triggered and begin.

1 And the preliminary plans have been
2 prepared. There's nothing finalized, and there's
3 nothing that suggests that the process will not
4 follow its normal process that the Department
5 undertakes in these situations. And that would be to
6 coordinate with the appropriate jurisdictions
7 involved and the appropriate stakeholders that
8 Mr. Baczek stated.

9 So I just want to restate our position
10 with regards to the jurisdiction of the Commerce
11 Commission with regard to the jurisdiction of its
12 orders as it relates to the rail safety crossing
13 issues. And our position that the highway traffic
14 planning and construction of design maintenance and
15 construction of safe highways and the State of
16 Illinois and in this region lies with the Department
17 of Transportation and not the Illinois Commerce
18 Commission.

19 MR. STREICHER: Judge, the Illinois Commerce
20 Commission's order of January 14, 2015, provides
21 specifically within paragraph 7 and 8 of its finding
22 and ordering paragraphs.

1 And that, quote, The administrative
2 law judge shall conduct such further hearings as
3 required regarding long term solutions including a
4 potential grade separation structure and the location
5 of any such structure, quote. Paragraph 7 required
6 IDOT to do engineering and environmental studies and
7 to develop long term solutions to address safety
8 concerns at the Strawn Road crossing.

9 So I disagree with Mr. Felder that
10 this Court is not under mandate to continue to ensure
11 that whatever is done with Strawn Road it also
12 includes, you know, safe alternatives and long term
13 solutions.

14 JUDGE KIRKLAND-MONTAQUE: Okay.

15 MR. GOWER: Your Honor, on behalf of Will
16 County, we've worked closely with the Illinois
17 Department of Transportation over the course of time
18 on highway planning processes, and we have every
19 confidence that we'll continue to enjoy a good
20 relationship and doesn't need to be carried out under
21 the offices of the ICC.

22 So we're content with following the

1 traditional planning process with respect to what's
2 going to happen in this region. In terms of my
3 reservation of my right to question the witness I'm
4 perfectly content to advise the Court within the week
5 or less of whether I intend to ask -- have any
6 additional questions. I don't anticipate having any,
7 but the original suggestion made sense to me.

8 MR. VERCRUYSSSE: Your Honor, I'd like to make a
9 point regarding the Staff motion to reopen. The main
10 concern was with the functioning of the traffic
11 signals and how it's interconnected with the warning
12 devices. The funeral processions and their ability
13 to continue southbound during a red phase was
14 countered to trying to get vehicles and trucks off
15 the tracks eastbound.

16 With permanent closure and the removal
17 of the traffic signals we do not have that major
18 concern. So I just want to identify that point. In
19 terms of a permanent closure, what Staff is looking
20 for and what we've heard today is that the roadway
21 will be reestablished on the east side of the tracks.

22 The crossing surface would be removed,

1 the warning devices for the railroad be removed, and
2 the pavement from the railroad tracks to the UP's
3 right of way would be removed. So on that side,
4 we're confident in that closure takes care of the
5 rail safety concern on that side. What we haven't
6 heard today is what the intent is on the west side as
7 far as just barricades which is a normal process.

8 There's different things we can do.
9 Is there a sufficient turnaround that the Village
10 would like to see. So Staff's perspective is that is
11 the outstanding or remaining item to be addressed and
12 then from the time, if the Commission does approve
13 the permanent closure, IDOT's planning process would
14 continue, and they would continue their coordination
15 with the parties to try and come to resolution as far
16 as access for westbound left turners off of Ira
17 Morgan. Thank you.

18 JUDGE KIRKLAND-MONTAQUE: So having said that,
19 Mr. Vercruysse, regarding the westbound treatment
20 would you like -- you think there should be an
21 additional hearing so that IDOT can address that?

22 MR. VERCRUYSSSE: I don't believe there should

1 be another hearing. I believe they should continue
2 with their Phase 1 process upon determination of the
3 Commission -- the approval of the permanent closure.

4 JUDGE KIRKLAND-MONTAQUE: Okay. All right.
5 Thank you.

6 All right. Well, having said all of
7 that, I think I'm going to go with my first plan,
8 which was to allow the Village of Elwood and Will
9 County an opportunity to determine whether or not
10 they would like to further cross-examine the witness
11 based on the exhibits that they will get.

12 And after receiving those responses, I
13 will either mark the record heard and taken and then
14 proceed to draft an order for this proceeding. Or if
15 there's additional hearings requested by one of those
16 parties to cross-examine, I will set a date for
17 another hearing in which you'd need to bring the
18 witness back for further examination by the parties.

19 So with that, I think given it's the
20 holidays and things coming up, how much time do you
21 think you need, Mr. Streicher? Two weeks, one week?

22 MR. STREICHER: Can I ask for 14 days, please?

1 JUDGE KIRKLAND-MONTAQUE: 14 days. December
2 28th. So after Christmas can we do the Thursday? It
3 doesn't matter. You're just going to make the filing
4 so that's fine.

5 So the Village of Elwood and Will
6 County shall have until December 28th to file
7 something indicating whether or not they would like
8 an additional hearing to further examine the witness.

9 And Mr. Vercruysse?

10 MR. VERCRUYSSSE: I'm sorry, I have a separate
11 item that I'd like to bring up after this. I'm sorry
12 about that.

13 JUDGE KIRKLAND-MONTAQUE: So I'm going to leave
14 the record open, allow them to make their filing. If
15 no further hearings are requested, I will by ALJ
16 ruling mark this record heard and taken and proceed
17 from thereon to present an order for the parties,
18 more than likely a proposed order because everyone
19 will have the opportunity to file briefs or what have
20 you, if necessary.

21 So that's the plan.

22 MR. STREICHER: I have a procedural question

1 too after Mr. Vercruysse.

2 MR. VERCRUYSSSE: I'm sorry I didn't bring this
3 up sooner. There was testimony by Mr. Baczek and a
4 little discussion on Laraway Road and the school that
5 is present to the east of the UP's tracks, and that
6 they are possibly moving.

7 There's also in the area the Houbolt
8 Road Bridge, which had been a discussion point of all
9 of our prior hearings. I don't know if Mr. Baczek
10 has an update or somebody else could provide it.

11 I think it is important for the
12 discussion on the Court, it's another access point
13 into the overall Intermodal facility. So if
14 Mr. Baczek has something and Mr. Parrish and
15 Mr. Felder, you're all right with him providing an
16 update if he has it, I think it would be helpful for
17 the record.

18 MR. BACZEK: Yes. The Department has entered
19 into an agreement with the City of Joliet, Will
20 County, and CenterPoint for the construction of a new
21 connection between CenterPoint and Interstate 80
22 using Houbolt Road and extending across the river.

1 So there will be a new connection that
2 will provide direct access to Interstate 80 in and
3 out of the facilities.

4 JUDGE KIRKLAND-MONTAQUE: Is that on the
5 location map, can you show me? Or no?

6 MR. BACZEK: Yes, actually, it is. The
7 Intermodal facilities are basically this area kind
8 of, you know, this whole area right here. 53 is over
9 here, I-80 is over at the top, and then we have I-53
10 west, Houbolt Road currently has a connection and
11 ramps and interchange with I-80 today, provides some
12 access to the south, but then it truncates and ties
13 into U.S. 6 before the river, and then it provides
14 access to the north.

15 The concept is that Houbolt Road would
16 be extended from its current terminus at U.S. 6 south
17 across the river and tie into -- within the --
18 adjacent to the Intermodal facilities. So that is
19 something that is being investigated and led by
20 CenterPoint.

21 MR. VERCRUYSSSE: Thank you very much.

22 JUDGE KIRKLAND-MONTAQUE: Given that's a new

1 issue, I'm going to allow anyone to ask questions of
2 Mr. Baczek regarding that, if anyone has any
3 questions regarding that.

4 MR. STREICHER: No questions.

5 JUDGE KIRKLAND-MONTAQUE: No, okay. All right.

6 MR. STREICHER: I did have a procedural
7 question. Mr. Parrish filed a document entitled,
8 Draft Order, in E-docket, and I don't know if that is
9 something that he filing as a motion that he wants us
10 to respond to. I don't know -- there was some
11 indication that there had been no objections or
12 exceptions.

13 But I did not treat it as an order of
14 the Court that we needed to respond to. I think he's
15 just trying to file an order as a template to get his
16 approval.

17 MR. PARRISH: I did not file it. It was
18 circulated amongst the counsel to see if we could
19 come to some sort of an agreement on that.

20 MR. STREICHER: Then I stand corrected on that,
21 okay.

22 JUDGE KIRKLAND-MONTAQUE: All right. So okay.

1 So you're satisfied, Mr. Streicher?

2 MR. STREICHER: Yes, I withdraw my comments.

3 JUDGE KIRKLAND-MONTAQUE: And just note to
4 that, if by chance the Village and the County have no
5 need for further hearing, and if by chance the
6 parties agree on a draft order, I will be more than
7 happy to accept such as a draft if that's what the
8 parties want to do. If not, I can draft the order
9 myself.

10 So with that, I'm going to end this
11 hearing and leave the record open and wait to get the
12 filings by December 28th, and we'll see what the next
13 step is at that point. So thank you all very much.

14 (Whereupon, the record was left
15 open until December 28, 2016,
16 filings per the Judge's
17 orders.)

18

19

20

21

22