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SAFETY at PRIVATE HIGHWAY-RAIL GRADE CROSSINGS
PUBLIC MEETING AGENDA

McKimmon Conference & Training Center
North Carolina State University, 1101 Gorman Street
Raleigh, NC 27606

Wednesday, September 27, 2006
9:30 a.m. - 5:00 p.m.

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FILE NO.: A007BEA

1 PANEL MEMBERS

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3 GRADY C. COTHEN, JR, Deputy Associate Administrator,
Office of Safety, Federal Railroad Administration. U.S.
4 Department of Transportation Federal Railroad
Administration.

5

6 PAUL WORLEY, CPM, Assistant Director for Engineering &
Safety, NC Department of Transportation, Rail Division,
7 Engineering & Safety Branch.

8

9 MIRIAM KLOEPPEL, Operations Research Analyst, U.S.
Department of Transportation, Federal Railroad
10 Administration.

11

12 RONALD RIES, Staff Director, Crossing Safety & Trespass
Prevention Program, U.S. Department of Transportation,
13 Federal Railroad Administration.

14

15 ANYA A. CARROLL, Principal Investigator, Rail and Transit
Systems Division, Volpe National Transportation Systems
16 Center.

17

18 PAT SIMMONS, Director, Rail Division, North Carolina
Department of Transportation.

19

20 WILLIAM M. BROWDER, Director of Operations, Association of

American Railroads.

21

22

23

Also Present:

24

JASON FIELD, NCDOT Rail Division

25

GEORGE YOUNG, NCDOT

1 Also Present (Continued):

2 ROBERT N. PRESSLEY, JR., P.E.

3 ARTHUR PETTEWAY

4 RIC CRUZ, NCDOT

5 JOHN BRYANT

6 DALE BRAY

7 GARY SHANK

8 DONALD THOMAS

9 LESLIE SPURLOCK

10 ROGER LIPSCOMB

11 JOHN PERRY

12 DANNY GILBERT

13 RICHARD WESTBROOK, UTU

14 GLENN LAMM, UTU

15 TINA MEDLIN, Remax

16 BILL BARRINGER

17 HASKEL STANBACK, NS

18 STUART SCHWARTZ, NS

19 SHANE WHITEMORE, CSX

20 CLIFF STAYTON, CSX

21 SUSAN TAYLOR

22

23

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1 P R O C E E D I N G S

2 (On the record at 9:33 a.m.)

3 MR. COTHEN: Can we begin together

4 here.

5 Good morning. Happy to have you here.

6 My name is Grady Cothen, and I'm out of

7 uniform. I left my jacket at home. But if

8 it helps everybody else to take theirs off,

9 then that's good, because what we want today

10 is a good exchange among colleagues and

11 friends and those who come in and get to

12 know this group about safety at private

13 highway-rail grade crossings. If that's not

14 the topic you expected, you probably want to

15 be in a core credit course in another room.

16 We are very happy to be in Raleigh

17 today as guests of North Carolina DOT and to

18 hold this public safety inquiry with

19 everyone in attendance.

20 The first thing we always try to do,

21 other than remembering our jackets, is to

22 have a safety briefing. Ron Ries is staff

23 director for highway-rail grade crossings

24 safety, and he will kick it off.

25 MR. RIES: Good morning. In the

1 likely event that there is an emergency, if
2 there is something that's within the
3 building, a fire, the alarms will go off.
4 We have several options for exiting the
5 building. If you go through the door on the
6 left, the back of the room, that takes you
7 directly into the lobby, and then you may
8 take a left, and that will take you out to
9 the front parking lot, continue all the way
10 to the street and we will gather there.

11 If that entrance is blocked, we can
12 also go out the other door in the back to
13 the right, go to the hallway and take
14 another right. That takes us to the back
15 parking lot, and there's a line of pine
16 trees in the back, so that will be a good
17 place for us to gather as well.

18 If for some reason we need to have an
19 emergency response, the house telephone,
20 which you might not be able to see, but

21 behind the flip chart there at the back goes
22 directly to the front desk. They will then
23 call 911 and provide the proper
24 instructions, so they will have somebody
25 here as quickly as possible.

1 Is there anyone here that's CPR

2 certified? We have four people. That will

3 be very popular in case something happens.

4 Hopefully if something happens, you would be

5 willing to help with that.

6 The restroom facilities, gentlemen, if

7 you go out the door to the back to the

8 hallway, just a quick little left, it's

9 there. The ladies room is to the right down

10 the same corridor, almost to the door.

11 I look forward to having a very

12 productive meeting.

13 MR. COTHEN: Thank you, Ron. We will

14 do inductions of FR18 members here in a

15 minute. I'd like to ask for greetings

16 first. The Federal Railroad Administration

17 have a particularly close relationship

18 across a broad number of issues with the

19 North Carolina Department of Transportation,

20 in particular, the rail division. This is a

21 group of individuals who in the provision of
22 passenger rail service, promotion of freight
23 rail service, and particularly close to our
24 heart, the promotion of rail safety, do an
25 exceptional job in providing a leadership

1 role nationally in terms of the public's
2 interest in safe and efficient rail service.

3 So I'd like to ask Pat Simmons, who is
4 director of the rail division, North
5 Carolina DOT to bring greetings.

6 MR. SIMMONS: Greetings. Thank you
7 Grady. And thank you for bringing your team
8 here and for bringing the Federal Railroad
9 Administration, and we genuinely do have a
10 positive and strong working relationship, a
11 partnership, as we -- in a moment I'm going
12 to introduce some of my folks, but those of
13 you in the room who are familiar with the
14 program and our department, I know we work
15 in the areas of track safety equipment that
16 operates over our state's railroads
17 crossing. Safety is an area where we spend
18 a lot of time and energy, developing new
19 partnerships and then developing new
20 passenger rail service.

21 In Washington, as here in Raleigh, in
22 North Carolina, public partnerships are
23 again in vogue, and today's topic of dealing
24 with private crossings will, I hope, get us
25 to that topic a little bit as well.

1 One of the challenges that we have in
2 administering our program is we do not as a
3 state have direct authority over private
4 crossings. So that's an area where I'm not
5 seeking more responsibility or more
6 authority, but we need tools to improve
7 safety.

8 We've had good partnerships also in
9 North Carolina with our communities in
10 developing crossing safety programs with our
11 family of some two dozen or so freight
12 railroads in the state, our labor and
13 employees on the railroad and, of course,
14 with Federal Railroad Administration.

15 Along the way some of our folks have
16 helped invent some new terms of art in
17 railroad crossing safety, including sealed
18 corridor and PCSI terms. If you don't know
19 what they mean, you will learn more about
20 them later today.

21 And one of the things that we value a
22 great deal is that we have been able to
23 partner with all of these folks to improve
24 safety through elimination of crossings that
25 were redundant or in addition to what we

1 normally needed. That's always presented
2 some challenges.

3 I'm pleased with North Carolina DOT.

4 We have a team of folks that are dedicated,
5 some of them are actually trained to do what
6 they do. I'm not. I'm a marine biologist.

7 We have a media specialist. We have a home
8 economist, and we have a historian that help
9 lead our vision. But their skill in looking

10 at problems, critically examining them,
11 finding solutions, being able to and willing
12 to compromise and partner with whomever we

13 can has been very helpful. With our

14 engineering and safety branches led by Paul

15 Worley, second to none among the other folks

16 we have here. Let me ask you all, everyone

17 is looking at Paul, so the rest of you,

18 Jason Fields with the pink tie, we

19 appreciate that. George Young, who heads

20 our FRA certified safety program. Arthur

Petteway, who both guides us from an
engineering standpoint and procurement of
contract assistance standpoint. And Ric
Cruz, who has a range of technical expertise
that he contributes to our crossing safety

1 program.

2 Thank you all for what you do, and
3 thank you FRA for blessing us and coming
4 here today, welcome.

5 MR. COTHEN: Thanks very much, Pat.

6 Ron, you want to introduce the FRA
7 crossing team here?

8 MR. RIES: We have several of our
9 grade crossing managers here from Region 2,
10 Don Thomas, who handles sort of the north
11 central states along the eastern coast. And
12 from Atlanta, from Region 3, we have Leslie
13 Spurlock. And also from the Washington
14 headquarters division is Miriam Kloeppel.
15 You will hear from her later. And also from
16 Volpe, Anya Carroll, one of the leading
17 research experts in crossing safety. We are
18 happy to have Volpe here supporting this
19 effort and also providing staff is; Myrna
20 Gustave and Perla Garcia in the back.

21 MR. COTHEN: All right, thank you.
22 I'm going to have Ron do the crystal duty.
23 Normally, when we go out on these events, we
24 take counsel with us, purely for the
25 edification of counsel I might add, and

1 counsel was not able to travel on this one.

2 And so Ron will provide the obligatory legal
3 officers' statement, and push comes to
4 shove, I will revert to my membership in the
5 DC bar to handling issues.

6 Go Ron.

7 MR. RIES: My only qualification for
8 doing this is I'm married to an attorney.

9 Good morning. The purpose of this
10 public meeting is fact finding. This is the
11 second in a series of public meetings
12 nationwide, which you and other members of
13 the public will have the opportunity to
14 provide information to FRA about issues
15 related to the safety of private
16 highway-rail grade crossings.

17 This public meeting is not meant to be
18 a forum for debate. Instead, we are here to
19 listen to you and provide an opportunity for
20 you to state your views on the record for

21 review and consideration.

22 In order to provide each of you an

23 equal opportunity to express your views and

24 comments, the following procedure will be

25 used.

1 Each person will be permitted to make
2 an oral statement. However, persons
3 representing the same organization may speak
4 as a group.

5 At the beginning of your oral
6 statement, we'd ask to make sure you come to
7 a microphone so we can get a good
8 transcription of what is being said. Come
9 to the microphone. Please identify
10 yourself, spell your name and indicate
11 whether you are appearing as an individual
12 or in a representative capacity.

13 At the end, FRA representatives may
14 ask questions in order to obtain
15 clarification of points made during your
16 statement. We will then move onto the next
17 oral statement.

18 If you refer to a document in your
19 oral statement that has not yet been
20 provided to FRA, please provide a copy of a

21 document to an FRA representative so it can
22 be marked for identification and added to
23 the public docket.

24 Today's meeting is being transcribed
25 and will become a part of the public docket

1 on this issue.

2 The transcript of each public meeting
3 will be available for viewing and
4 downloading at the Department of
5 Transportation's docket management system
6 web site at HTTP//DMS.dot.gov, and please
7 note that www is not used in the web
8 address.

9 The entire public docket is also
10 available for inspection at the Department
11 of Transportation's docket facility room,
12 which is located in Room PL, Plaza 401 at
13 400 7th Street S.W. in Washington, D.C.
14 Thank you.

15 MR. COTHEN: Okay. I think you have
16 in your packet the initial federal register
17 notice on this activity that gives you the
18 information about the docket as well. We
19 can refer to it in the future.

20 Last week, we had a railroad safety

21 advisory committee meeting in Washington,
22 D.C. As a part of that Miriam Kloeppel, who
23 you will hear from in just a moment, made a
24 presentation about this activity. The
25 deputy administration and the administration

1 was sitting next to me at the front table,
2 and I turned to him and I said, Cliff, I
3 said, you know, we've got 95,000 private
4 crossings out there. We've got significant
5 amount of risk. It's widely disbursed. We
6 don't have any standard signage. There's no
7 assignment of responsibility. There's no --
8 we don't have a program, but other than
9 that, everything is under control. And I
10 think that that perhaps is a bit of an
11 overstatement, but only slightly in the
12 category of hyperbole. Actually, America's
13 railroads have a big challenge in dealing
14 with private crossing issues to the benefit
15 of the users of those crossings and the
16 safety of their own operations and
17 personnel. And they do a good job trying to
18 manage those issues on a day-to-day basis.

19 The real issues before us today is
20 whether or not maybe a little help is in

21 order in terms of some regularity in public

22 policy across the nation.

23 We thought the best way to find out

24 about that was to go out and hear from

25 people as much as we could around the

1 country. So we have been trying to beat the
2 bushes and get folks in with diverse
3 viewpoints about the subject matter. And,
4 you know, I recognize there are a number of
5 people in the audience and been reminded
6 from the sign up list of the identity and
7 background of others. So I think we're
8 still in the process of beating the bushes,
9 but we do have a core of folks here who know
10 a lot about the subject. So we expect to
11 have a good day.

12 We do appreciate everyone attending.
13 We do want to make this as helpful and as
14 informal as we can. As Ron indicated in the
15 legal officer's statement, we are taking a
16 transcript, which we'll place in the
17 electronic docket so that everybody can
18 access it.

19 So if you can be helpful to us, as we
20 go forward, and as you speak, if you just

21 identify yourself and your organization each
22 time you speak, then the court reporter will
23 be able to provide the best quality
24 transcript.

25 Before we go any farther, I will

1 recognize Miriam Kloeppel, who is operations
2 research analyst in our highway rail grade
3 crossing safety staff officer and safety
4 analysis to set the stage.

5 MS. KLOEPPEL: Good morning. I will
6 turn this on.

7 Thank you all for coming. I'm just
8 going to provide a little overview, as Grady
9 suggested, about the current status of what
10 we understand to be the current status of
11 safety at private crossings nationwide.

12 Private crossing safety has been for
13 some time a matter of concern to the US
14 Department of Transportation and to other
15 federal agencies. In 1993, the FRA hosted
16 an open meeting to initiate industry wide
17 discussions.

18 In its 1994 Rail Highway Safety Action
19 Plan, the United States Department of
20 Transportation proposed to develop national

21 minimum standards for private crossings.

22 In its 1997 study on safety of passive
23 grade crossings, the NTSB highlighted the
24 need for some system to improve private
25 crossing safety and recommended that the US

1 DOT, in conjunction with the states,
2 determine governmental oversight
3 responsibility for safety at private grade
4 crossings.

5 In 1999, the NTSB weighed in again in
6 its report on a private grade crossing
7 accident in Portage, Indiana. In this case,
8 the NTSB recommended that the DOT eliminate
9 any differences between public and private
10 crossings with regard to funding or
11 requirements for safety improvements.

12 In 2004, the US DOT published an
13 updated action plan in which the FRA
14 committed to leading an effort to define
15 responsibility for safety in private
16 crossings. Today's meeting is a vital part
17 of that effort.

18 What I did was I took the crossing
19 count by state, which is easily retrieved
20 from our safety data web site, and I grouped

21 it into our geographic regions. And as you
22 can see, regardless of geographic region,
23 private crossings constitute a significant
24 percentage of all at-grade crossings. The
25 total count nationwide for private crossings

1 is about 94,000.

2 Although accidents at public crossings
3 have declined considerably over the past 20
4 years, declining by one-third over the past
5 decade alone, the number of accidents at
6 private crossings has remained comparatively
7 stable, declining only ten percent over the
8 past decade. In most years, the number of
9 fatalities occurring in accidents at private
10 crossings exceeded the number on-duty deaths
11 among railroad employees in all railroad
12 operations. The following are a few
13 examples.

14 About one p.m. on May 30, 2006, Amtrak
15 train No. 350 struck an empty gravel truck
16 at a private highway-rail grade crossing
17 near Jackson, Michigan. The train was
18 traveling about 74 miles per hour when the
19 truck entered the crossing in front of the
20 train. One train crew member and 15

21 passengers received minor injuries in the
22 accident. The truck driver sustained fatal
23 injuries.

24 The private road accident crossing is
25 used by an excavating company and by two

1 residences. On average, fewer than 30
2 highway vehicles and a dozen trains, eight
3 of which are Amtrak, traverse the crossing
4 daily. It's estimated the crossing was
5 created about 1948. There is no record of
6 any maintenance contract between the
7 business owner and Norfolk Southern
8 Railways.

9 About 4:40 p.m. on July 3, 2006,
10 southbound Amtrak train 8507-03 struck a
11 passenger vehicle at a private crossing near
12 Castle Rock, Washington. According to the
13 Amtrak engineer, the accident occurred when
14 a motorist entered the crossing after a
15 northbound train cleared it. Train crew and
16 train passengers sustained no injuries, but
17 all four motor vehicle occupants sustained
18 fatal injuries. The road leading to this
19 crossing is a county road, but county
20 maintenance ends shortly before the

21 crossing, and a private road that extends
22 beyond the crossing dead ends after serving
23 11 residences. About 60 trains daily
24 traverse this crossing. It's not known when
25 this crossing was created, and no

1 maintenance contract had been located for
2 this crossing.

3 About 7 p.m. on June 21, 2006, a metro
4 train traveling south at a recorded speed of
5 79 miles per hour struck a truck trailer
6 traversing a private grade crossing near
7 Lemont, Illinois. A piece of the trailer
8 became wedged under the snow pile of the
9 locomotive, and the locomotive derailed the
10 crossing. The driver of the tractor trailer
11 was not injured. There were 170 passengers
12 aboard the train. Five passengers claimed
13 minor injuries and were treated and
14 released. No train crew members reported
15 any injury. This crossing serves two
16 commercial facilities to which there is no
17 other access. Roughly 28 trains and fewer
18 than 30 highway vehicles use this crossing
19 daily. The crossing is maintained by the
20 Canadian National Railway, but there is no

21 formal agreement.

22 As a side note, about six months prior

23 to this accident in December of 2005,

24 another accident occurred at this same

25 crossing. The truck driver in the December

1 accident sustained fatal injuries.

2 As many of you know, the FRA maintains
3 a national inventory of all crossings
4 public, private or pedestrian at grade or
5 grade separated. The data are used by many
6 state, federal or private organizations for
7 research or for resource allocation. It's
8 updated by the states and by the railroads
9 on a voluntary basis.

10 As you can see, only about one-third
11 of the efforts for private crossings have
12 been updated within the past five years and
13 a significant portion of records have never
14 been updated. Analysis on data of this
15 quality must necessarily be somewhat
16 tentative.

17 I don't expect you to read this. I
18 just put this up for illustration.

19 This is a shot of the form on which
20 crossing data are collected for the national

21 inventory. Almost all the data elements are
22 required for public crossings. For private
23 crossings, however, only the sections I have
24 shaded are collected.

25 As a result, even when a private

1 crossing record is up to date, potentially
2 useful data are not collected. This slide
3 just illustrates a small sample of the
4 differences.

5 According to the FRA's 2002
6 compilation of state laws and regulations
7 affecting highway-rail grade crossings, the
8 state's approaches to private crossings are
9 highly varied. Take, for example, the
10 extent of control held over the creation or
11 closure of private crossings.

12 Here are some examples of the degree
13 to which traffic control devices are
14 standardized at private crossings.

15 At the time we were putting this
16 together, these were the only states that
17 said they had any control at all, according
18 to the compilation. I will clarify that.

19 And, again, according to that
20 compilation, more than half the states have

21 no laws or regulations at all relating to

22 private crossings.

23 The American Association of State

24 Highway and Transportation Officials or

25 AASHTO, has a standard committee on rail

1 transportation which most people just refer
2 to as SCORT. SCORT provides an arena
3 whereby members, states and the railroads
4 can exchange technical information, review
5 existing regulations and proposed changed or
6 new legislation or regulations. Currently,
7 SCORT has a document or resolution on
8 railroad safety improvement and enforcement
9 calling for research and development and
10 improved and lower cost technologies for
11 warning systems. The resolution also
12 believes that any future comprehensive
13 national transportation program must
14 continue to provide funds for consolidating,
15 separating or otherwise protecting railroad
16 highway grade process.

17 Neither the committee's policy
18 statements nor its resolutions make any
19 overt distinction between public and private
20 crossings. But it should be remembered that

21 the majority of the members represent
22 states, and it's unlikely that AASHTO will
23 exercise jurisdiction beyond the
24 jurisdictions of its members.

25 The federal government, in the guise

1 and various US DOT agencies, does offer some
2 regulations or guidance documents that may
3 touch on safety of private crossings. As
4 you can see in this example, however, none
5 of these really covers a significant portion
6 of the nation's private crossings. We range
7 from about one percent of the private
8 crossings for signal systems to 25 percent
9 of all crossing accidents being addressed by
10 the freight carrier organization, and the
11 manual on uniform traffic control devices
12 applies to public crossings.

13 In fact, there is no federal
14 regulation or guidance that promotes safety
15 of private grade crossings by specifically
16 or uniformly addressing the special issues
17 presented at private crossings.

18 Some private crossings may be used
19 only seasonally, like certain farm crossings
20 used only for agriculture equipment, or they

21 may be used only for routine personal use,

22 like crossings that serve residences.

23 Other private crossings, such as this

24 industrial access crossing, are used

25 extensively for private business purposes by

1 employees, contractors and suppliers. In
2 still other cases, they may be used very
3 heavily by the public to enter commercial
4 facilities.

5 The rights assigned to the private
6 crossing holders vary greatly. A holder of
7 the right of privileged cross may hold
8 outright ownership of the underlying
9 property or have documented easement over
10 the railroad property. Where it is
11 recognized, the holder may have a
12 prescriptive easement or squatter's rights
13 essentially. There may be a documented
14 license under contract, or maybe only a
15 verbal license, subject to revocation
16 without notice.

17 Railroads may require the crossing
18 holders to purchase insurance or provide
19 some other protection in the event of a
20 collision at the crossing. Contracts or

21 other legal documents may further define
22 responsibilities, such as maintenance of
23 crossing surface or providing notifications
24 under stated conditions.

25 This is just a slide, showing the

1 address for the docket submissions, as Ron
2 Ries mentioned, and it would certainly be
3 minimal to bring that back up if people
4 want. But I wanted to go along here.

5 The FRA solicits discussion and
6 comments on all areas of safety and private
7 crossings, but particularly encourages
8 discussion on the following topics: At
9 grade highway rail crossings present an
10 inherent risk to users, including the
11 railroad and its employees, as well as to
12 other persons in the vicinity should a train
13 derail into an occupied area or release
14 hazardous material. From the standpoint of
15 public policy, how do we determine whether
16 creation or continuation of a private
17 crossing is justified?

18 How do we determine when a private
19 crossing has a public purpose and is subject
20 to public use?

21 How should improvement or maintenance
22 responsibilities be allocated?
23 Is there a need for alternative
24 dispute mechanisms to handle disputes
25 between private crossing owners and

26

1 railroads?

2 Should some crossings be categorized
3 as commercial crossings rather than as
4 private crossings?

5 Should there be nationwide standards
6 for warning devices at private crossings or
7 for intersection designed for newly created
8 private crossing?

9 Are there innovative traffic control
10 devices that could improve safety of private
11 crossings at major railroad corridors,
12 including those where passenger services are
13 provided?

14 Is the current assignment of
15 responsibility for safety at private
16 crossings effective?

17 Do risk management practices
18 associated with insurance arrangements
19 result in "regulation" of safety at private
20 crossings?

21 Should state and federal governments
22 cooperatively work to determine
23 responsibility and provide oversight?
24 Should the US DOT request enactment of
25 legislation to address private crossings?

1 If so, what should it conclude?

2 There is some standardization of
3 treatment at public crossings across the
4 nation. For example, the confirmation and
5 use of signs, signals, pavement markings and
6 any other traffic control devices placed at
7 public crossings generally conform to the
8 guidance provided in a manual on uniform
9 traffic control devices.

10 In addition, in 2002, the United
11 States Department of Transportation
12 published a guidance document created
13 through the efforts of a technical working
14 group made up of representatives from both
15 the public and private sectors, and although
16 it does specifically say that it is for
17 public crossings, in most states, there is
18 no such standardization in private
19 crossings.

20 The arrangement of private crossing

21 signs can be highly individual, and sign
22 maintenance may be sketchy or nonexistent.
23 I will just emphasize there is a crossbuck
24 there.
25 To gather information on the current

1 state-of-the-art, as well as ideas about
2 possible solutions to the existing problems,
3 the FRA is holding a series of public
4 meetings. The first of these was held
5 August 30 in Fort Snelling, Minnesota.
6 Obviously, this is the second, and there
7 will be two additional meetings on
8 October 26 in San Francisco, and on December
9 6 in New Orleans.

10 This is not a complete list of
11 organizations represented at the meeting in
12 Fort Snelling, but rather those
13 organizations who provided either formal
14 statements or substantial input during the
15 meeting.

16 Numerous topics were discussed in Fort
17 Snelling, but to my mind, they fell into a
18 few different categories. In the first, it
19 seemed that attendees agreed that there is
20 no existing process that would provide

21 consistent structures to create or to
22 reevaluate the relative need for new private
23 crossings or to upgrade or close existing
24 private crossings.

25 Attendees also seemed to indicate that

1 different parties often used different
2 definitions to decide whether a crossing was
3 public or private.

4 In addition, much discussion centered
5 on the fact that private crossings are
6 created for a wide variety of reasons,
7 including residential, industrial,
8 commercial, institutional or temporary, and
9 these crossings may be used to varying
10 degrees by members of the general public,
11 may be traversed by users ranging from
12 pedestrians to construction vehicles or
13 hazardous materials and tank trucks.

14 I think this concludes the comments I
15 had. I just thought I'd open up discussion
16 at this point, or Grady, we can pass it on
17 to Paul. Thank you.

18 MR. COTHEN: Thank you, Miriam. From
19 the point of view of the FRA team, this is
20 where we begin learning something. We

21 brought you an introduction, and I'd like to
22 recognize Paul Worley, assistant director
23 for engineering and safety of the rail
24 division North Carolina DOT. Paul is a long
25 time FRA colleague. He is a member of our

1 railroad safety advisory committee and a
2 leader in his field.

3 So Paul, take as much time as you need
4 or want.

5 MR. WORLEY: Thank you, Grady.

6 Again, Paul Worley, assistant director
7 for engineering and safety with NCDOT's rail
8 division, and today I'm going to give some
9 general technical comments on behalf of our
10 department. And I do want to put a
11 disclaimer that they do not present policy
12 position for the Department of
13 Transportation or our board of
14 transportation on private railroad
15 crossings.

16 I invited Ron Ries back in June to
17 come to North Carolina to have one of the
18 national private crossing meetings here
19 because of the issues we have here in our
20 state. We thought they could be very

21 interesting and add a lot to the subject of

22 this being discussed nationwide.

23 Following the implementation of -- a

24 great part of the implementation of Sealed

25 Corridor, the NCDOT has taken the same

1 off-the-shelf or clear-minded solutions
2 approach to private crossings on the Raleigh
3 and Charlotte border. We emphasized closure
4 and alternate access of possible
5 signalization of high volume crossings,
6 signage and even consider new mandates and
7 laws.

8 North Carolina is one of a few states
9 to pursue private crossing safety
10 improvements. On the Raleigh/Charlotte
11 corridor, we've received around \$1.9 million
12 from FRA in special mixed generation high
13 speed rail funds for a steady and a pilot
14 program for closure and safety improvements.

15 In addition, as part of the
16 comprehensive corridor studies, we have not
17 been able to ignore the special needs and
18 challenges of private crossings when
19 evaluating public crossings. The use of
20 such private crossings, accuracy of

21 inventory information, as well as the sheer
22 number on some corridors certainly has
23 served to open the eyes of corridor
24 diagnostic teams and require attention and
25 innovative approaches for closures and

1 improvements.

2 There are many challenges for private
3 crossings, as Miriam mentioned, and some
4 that we see and deal with every day.

5 First of all, as a private issue,
6 there are generally no public funds for
7 capital improvements on the state or federal
8 level or maintenance beyond special grant
9 funds, which we have been fortunate to
10 receive.

11 There are varied types. I will name
12 just a few, and you may even have more.
13 Private use residential, farm, industrial,
14 plant to plant, railroad, private crossings,
15 and then there are the public use crossings
16 residential development, business,
17 industrial, recreational and even golf cart
18 crossings, and those are important.

19 By the time private crossing issues
20 present themselves at the state level, they

21 are sometimes politically charged, and often

22 all we can do is listen and refer to

23 railroad officials to keep people talking

24 and collaborating.

25 Private agreements and deeds may cover

1 the crossings and involve multiple parties
2 over many years.

3 And then finally resources to maintain
4 an accurate inventory of private crossings
5 in a comprehensive manner is not there
6 either at the federal state level.

7 Bob Pressley, project engineer with
8 the consulting firm of Gannett Fleming, will
9 make a presentation on some of the crossing
10 studies and safety initiatives they have
11 been involved with our department over the
12 last few years. Their studies have included
13 the federal designated southeast high-speed
14 rail corridor, which is also the NS main
15 line, a potential rail transit commuter
16 line, and an intercity passenger freight
17 corridor. NCDOT has learned that we must
18 partner with the owning/operating railroads
19 to find comprehensive and innovative
20 approaches to address this issue.

21 But first, a few weeks ago we gathered
22 our crossing brain trust together, these
23 guys over here, and tried to respond to some
24 of the nine issues that were noted in the
25 notice of inquiries.

1 The first one was the crossing
2 assignment responsibility for safety of
3 private crossings effective. And to what
4 extent do risk management practices
5 associated with insurance arrangements
6 resulted in regulations and safety of
7 private crossings?

8 Well, our first thought was there's
9 not a consistent nationwide approach of
10 private crossings. Instead, each railroad
11 determines what can and will be done to
12 improve safety and manage the risk at those
13 crossings. There is a significant need to
14 correct and update uniform data into the
15 national state crossing inventories, and to
16 ensure appropriate safety management
17 practice. USDOT, railroads through AREMA
18 and AAR, the states through AASHTO, and rail
19 transport operators through APTA should
20 collaborate to develop a consistent

21 approach, such as was done with the Crossing
22 Technical Work Group document was developed
23 through ITE.

24 The second questions was: How should
25 improvement or maintenance costs associated

1 with private crossings be allocated?

2 Well, stakeholders, federal and state

3 agencies, local government, transit

4 authorities, railroads and private crossing

5 owners may eventually need to develop a

6 methodology to share costs associated with

7 grade crossing safety treatment,

8 construction and maintenance based on local

9 conditions and needs and users. Such

10 conditions include transit and passenger

11 rail corridors, higher speed and

12 conventional, quiet zones as well as

13 critical intermodal corridors. All of which

14 have a public and private sector interest as

15 part of a multi-modal transportation system.

16 Capitalization and future maintenance costs

17 should be considered as part of the project

18 implementation, where appropriate, so that

19 we can ensure some perpetual maintenance and

20 not with examples that we saw earlier.

21 Question three: Is there a need for
22 alternative dispute resolution mechanisms to
23 handle railroad disputes that may arise
24 between private crossing owners and the
25 railroads?

1 At this time, disputes are handled
2 through the courts in the local area which
3 presents a challenge to the ruling party,
4 since they can be biased towards the
5 landowner, and litigation is always costly
6 for both parties. Imagine the amount that
7 you put in litigation, what that could be
8 done if you put it actually into engineering
9 and building safety warnings. There is
10 merit in the development of an unbiased
11 committee to determine the outcome of these
12 disputes. Because railroads engage in
13 interstate commerce, dispute resolution
14 should be considered for handling at the
15 federal level, perhaps by the FRA through
16 their regions, using crossing safety
17 managers in support of the effort.

18 I put that in for Tom.

19 Should the state or federal government
20 assume greater responsibility for safety in

21 private crossings?

22 Well, first, nationwide federal

23 guidelines should be considered for

24 development of our stakeholders through

25 AASHTO, AREMA, APTA and the National

1 Concerns or Uniform Traffic Control Devices
2 guidelines, rather than regulation would
3 allow all parties to work through the
4 process incrementally and learn accordingly.

5 How many times do we adopt rules and
6 regulations and learn to find out it really
7 doesn't work practically.

8 So if we can work through the process
9 of guidelines and best practices, that may
10 be a good approach.

11 Should there be nationwide standards
12 for warning devices or private crossings or
13 for intersection design of new private
14 crossings?

15 Again, nationwide federal standards
16 should be considered for development by
17 stakeholders again through AASHTO, AREMA,
18 APTA, and the Conference for the Uniform
19 Traffic Control Devices. Innovative and
20 cost effective approaches should be

21 encouraged, researched and tested for the

22 common good.

23 Question six: How do we determine

24 when a private crossing has a public purpose

25 and is subject for public use?

1 Again, a technical working group with
2 identified stakeholders should be considered
3 to develop guidelines or criteria that
4 distinguishes between a true private
5 crossing versus one that has a public
6 purpose. This technical work group can also
7 contribute guidance for warning device
8 selection and application for private
9 crossings.

10 Seven: Should some crossings be
11 categorized as commercial crossings rather
12 than private crossings?

13 The categories utilized in the
14 national crossing inventory should be
15 reviewed to differentiate between potential
16 traffic volumes and/or service to single
17 versus multiple users at recreational,
18 commercial, industrial crossings and
19 residential. The addition of an
20 institutional category should also be

21 considered that involves government

22 facilities, universities and military.

23 Internal plant-to-plant crossings at

24 railroad-use only crossings should be noted.

25 Question eight: Are there innovative

1 traffic control treatments that could
2 improve safety at private crossings on major
3 rail corridors, including those on which
4 passenger service is provided?

5 The first approach to any treatment
6 should include closure and/or alternative
7 access. Gates and signals have a proven
8 track record of reducing potential
9 collisions and are not easily replaced at
10 this time by less costly technologies
11 without compromising reliability. North
12 Carolina's private crossing safety
13 initiative should be evaluated for its
14 effectiveness, and further funding for this
15 and similar project initiatives should be
16 included in the next federal authorization.
17 To date, innovative treatments have not
18 provided either reduced cost or adequate
19 safety improvements to justify their use for
20 any but experimental institution in

21 controlled test environment.

22 And last, number nine: Should the

23 Department of Transportation request

24 enactment of legislation to address private

25 crossings? If so, what should it include?

1 There are many issues to resolve prior to
2 making this determination. Examples include
3 how are all of the users of the crossings
4 going to be determined? How can all the
5 agreements be gathered and inputted into a
6 national database? How are private
7 crossings where agreements cannot be found
8 be handled? And how will all of the dirt/
9 gravel highways be addressed regarding the
10 approaches to private crossings? How are
11 safety improvements to be funded? And how
12 are national security concerns for the
13 railroad infrastructure and commodities be
14 addressed?

15 Those are just some of our thoughts in
16 a group brainstorming one afternoon. I'm
17 sure that there are many other approaches,
18 many other ideas that people may have, but
19 it is an important issue to us, and we
20 continue to try to move forward on public

21 crossings, work where we can on private
22 crossings with our railroad partners, but it
23 is an issue that we feel cannot continue or
24 cannot be ignored. We have to move to some
25 kind of approach toward that.

1 And to give you some examples of
2 approaches that we've taken, Bob Pressley is
3 here and will be making a presentation on
4 what we've done on three of these corridors
5 we've mentioned, and some of the solutions
6 that you will see, again, clear-minded
7 approaches for a very complex process and
8 issue. Thank you.

9 MR. PRESSLEY: As Paul said, my name
10 is Bob Pressley. I'm the senior project
11 manager with Gannett Fleming. We are
12 located in Charlotte. Our firm has had the
13 privilege of working for the rail division
14 for several years now, and during the course
15 of that time, we have been involved in three
16 particular studies that either included
17 significant numbers of private crossings or
18 else they included a significant private
19 crossing.

20 So I want to show you some of our

21 findings and some of the proposed solutions
22 to some of those problems that we've
23 identified.

24 We have conducted three particular
25 studies; one is the private crossing safety

1 initiative, PCSI, as it is being called,
2 which involve the Norfolk Southern main
3 line, the North Carolina railroad corridor
4 from Charlotte to Raleigh. There are 46
5 private crossings along that stretch of
6 railroad, 140 track miles. Norfolk Southern
7 runs about 50 freight trains a day on the
8 main line portion of that track, and it also
9 includes six passenger trains on a daily
10 basis.

11 We conducted a traffic separation
12 study on the Norfolk Southern O line, which
13 runs from Charlotte to Mooresville. It's
14 30 miles. It has 109 grade crossings, 42 of
15 which are private on this 30 miles of
16 railroad.

17 The saving grace there is that NS only
18 operates one freight train a day on the
19 portion of the track, and then on the
20 northern portion they operate a freight

21 train on Tuesdays and Thursdays. So all of
22 those grade crossings are not severely
23 impacted by high train volume.

24 The third section of railroad that we
25 looked at is Norfolk Southern S line, which

1 runs from Salisbury to Asheville, 143 track
2 miles. There are only four private
3 crossings on this particular railroad, and
4 Norfolk Southern operates approximately 14
5 freight movements a day. Our findings of
6 all -- out of these three studies, we found
7 92 private crossings, 39 of them providing
8 residential access, as you see here, 18 of
9 those provided access to farms. We had 29
10 providing industrial access, and six
11 provided what we classified as commercial
12 access. This is the Billy Graham radio
13 station over in western North Carolina.

14 We could not find any written
15 agreements recorded in the public land
16 records for any of these 92 private
17 crossings. Norfolk Southern was able to
18 find 25 agreements in their archives in
19 Atlanta for a portion of these 92 private
20 crossings.

21 Warning devices; 39 of them had none;
22 39 of them had crossbucks.
23 We found five that had gates and locks
24 and nine had gates and flashers.
25 We found that the industrial crossings

1 posed particular and special hazards.
2 Public Service Company of North Carolina,
3 here in Wake County, operates a propane
4 storage and distribution facility. They get
5 about a hundred tractor trailer loads of
6 propane in during the winter. Those propane
7 tankers cross both the Norfolk Southern and
8 the CSX.

9 Over in western North Carolina, on the
10 S line, Ingles Markets, which is a large
11 grocery store chain operating in six states,
12 has a tremendous warehouse facility located
13 on the S line served by private crossing.

14 Down in Mecklenburg County, North
15 Carolina, equipment company is served by a
16 private crossing. You know about equipment
17 companies, they have low board trucks and
18 trailers, and they supply heavy equipment.

19 Over in Guilford County, Rankin Fryar
20 is a quarry and demolition landfill that is

21 served by a private crossing. We found that
22 several of the residential crossings serve
23 more than one residence.

24 In Orange County, Byrdsville Road
25 served 67 residential units, and I've got a

1 picture I will show you that in a few
2 minutes.

3 Terrell's Trailer Park is another one
4 with 12 units. Down in Rowan County on the
5 NS main line, Ethel Lane serves 18
6 residential units. It's a badly humped
7 crossing. Stroup Farm Road in Mecklenburg
8 County is a private crossing with the
9 potential to serve 300 acres of farm land
10 that is proposed for redevelopment as
11 residential. And also in Mecklenburg
12 County, we found another badly humped
13 crossing that served seven residential
14 units.

15 We found that providing solutions to
16 some of these private crossings can be very
17 expensive. The public service crossing that
18 I mentioned here, we currently have it in
19 the design stage for elimination, but that
20 is going to cost about \$850,000 to do it.

21 We proposed relocating the Ingles
22 market crossing over western North Carolina,
23 and as you can see, over a million dollars
24 if it is built the way we currently have it
25 conceived.

1 The Stroup Farm Road, and I will show

2 you a graphic on this one in a moment, the

3 recommended solution there is to build a

4 grade separation, and with the frontage road

5 and everything that goes with it, we are

6 probably looking at about a \$10 million

7 expenditure.

8 Richard C. Roberts is a private

9 crossing serving a mobile home over in

10 Guilford County, and we've proposed to

11 simply buy that one out and close the

12 crossing. According to the tax records,

13 that property is probably worth about

14 \$65,000.

15 Terrell's Trailer Park, again, we

16 recommended gates and flashers to that one,

17 somewhere around \$150,000, and then in

18 Mecklenburg County, we had recommended that

19 a public crossing be upgraded and that a

20 frontage road be developed north and south

21 of that public crossing so that we can close
22 five private crossings. But as you can see,
23 that would be about a million dollar
24 expenditure.
25 So all of these solutions are very

1 expensive.

2 This is the public service company
3 that's just down the road here.
4 Hillsborough Street is on the bottom of the
5 graphic. NC-54 is on the north. We're
6 proposing to build alternative access that
7 will take them out to NC-54. Their existing
8 grade crossing, as you can see, crosses both
9 the NS and the CSX. We would build a new
10 driveway for them that would provide them
11 access to NC-54 and close the private grade
12 crossing.

13 This is Ingles Market. It's over in
14 Asheville. As you can see, the tractor
15 trailer is on the crossing. That is very
16 typical. They have about 3,000 movements a
17 day over that crossing, 2,000 of which are
18 tractor trailers. They are proposing to
19 expand that warehousing operation and add
20 about a thousand trips a day once all that

21 is implemented.

22 They exit out onto US 70. There's no

23 traffic signal there, so these trucks have

24 to wait until the traffic clears on US 70

25 before they can entered that flow of

1 traffic. Bill Barringer can tell you about
2 all the times the gates are broken by these
3 trucks when a train approaches the crossing.

4 This is an aerial view of the Ingles'
5 warehouse. What we're proposing to do here
6 is to relocate that crossing to the west and
7 tie it into an existing intersection with a
8 traffic signal so that we can get new gates
9 and flashers, new crossing material.

10 This one, again, is probably in excess
11 of a million dollars, if built as we show
12 here. Their expansion plans are to the
13 right of the screen. But they would add
14 about a third more to what they have there
15 today.

16 This is the Stroup Farm crossing in
17 Mecklenburg County. It does have gates and
18 flashers. It is a private crossing.

19 This is a Duke Power crossing that is
20 just up the road from the Stroup Farm

21 crossing, and you can see in this graphic,
22 there are four private crossings just bang,
23 bang, bang, bang. We have proposed to build
24 a grade separation to the far right of the
25 screen where the pump station road is. We

1 would build a new bridge over the railroad,
2 and then the frontage road on the south side
3 of the track or east side of the track would
4 serve all of that property, two large farms
5 and the deep power track. All of that is
6 being planned for a residential development
7 at this time. So if that grade separation
8 can be built then those four private
9 crossings can be eliminated.

10 This is Byrdsville Road over in Orange
11 County, serving right now 67 residential
12 units. You have a mixture of mobile homes
13 and single-family residences in there.
14 There are several vacant lots currently. So
15 that development has potential to serve over
16 a hundred homes. The gates and flashers
17 were used salvaged equipment, which NCDOT
18 and Norfolk Southern were able to install
19 several years ago that was probably from the
20 FRA grant as well?

21 MR. WORLEY: Yes, that's correct.

22 MR. PRESSLEY: This one does have

23 gates and flashers. Current traffic logged

24 is 311 a day on this particular crossing.

25 This is Ethel Lane and Jukebox Road

1 down in Rowan County. Ethel Lane which is
2 the upper one of the two crossings shown
3 here is badly humped. It has had a series
4 of accidents over the years. There are 18
5 homes located in this area currently with
6 several tracts of undeveloped land that
7 could be developed residential in the
8 future.

9 We have proposed here a frontage road
10 that would be built on the east side of the
11 railroad that would take all of this traffic
12 out to an existing public roadway, and then
13 they can cross the railroad where there are
14 gates and flashers currently located.

15 This project is in the right-of-way
16 stage at this point. The NCDOT Highway
17 Division is attempting to negotiate a
18 donation of all the right-of-way, and if
19 that is accomplished, then the rail division
20 will provide the funding to actually build

21 the road, and it will become a state
22 maintained road, which would be of
23 significant benefit to all of these
24 properties.
25 This gives you a little closer view.

1 What we have tried to do is lay this road
2 out in such a way that the property owners
3 can see the advantage of possibly
4 subdividing their property in the future for
5 additional lots. So hopefully that will
6 help sell the project to those that may be
7 reluctant to participate.

8 This is Long Beverage also here in
9 Mecklenburg County, another industrial
10 crossing. There is a building, a beverage
11 distribution warehouse. Again, this is one
12 of those the state and Norfolk Southern were
13 able to work out a deal where salvaged
14 equipment was used to provide the gates and
15 flashers at this particular crossing.

16 This is Bailey Road in north
17 Mecklenburg County. It's an existing public
18 crossing, but there are private crossings
19 both north and south of this particular
20 crossing. We propose to improve the public

21 crossing, then build a frontage road that
22 would allow those five private crossings to
23 be closed. Again, this is about a million
24 dollars worth of investment.

25 This is the Roberts property. As you

1 can see, there's a nice gate there, but when
2 we were there, it was obvious that that gate
3 had not been used in several years. But
4 there is a single mobile home occupying this
5 property off the bottom of the slide there.
6 Again, we recommended this property simply
7 be purchased, and Duke University, the Duke
8 forest surrounds all of this property. So
9 it would be a logical purchase, and then the
10 state could sell that property to the
11 university and recoup their investment or
12 whoever should wind up purchasing that
13 particular piece of property.

14 Our conclusions, if there are
15 agreements, they are between the railroad
16 and the private owner. There is uncertainty
17 about state and federal jurisdiction in all
18 of this. We found that a lot of these
19 crossings can be dangerous. There are
20 industrial hazards certainly imposed by many

21 of them. A lot of them have poor sight
22 distance, and if any protection, it's not
23 very much or any warning devices. And we
24 expect that a lot of these will experience
25 increased traffic as time goes by.

1 The solution to many of these is

2 expensive, as we've demonstrated. We're

3 looking at grade separations and property

4 acquisition frontage roads and things of

5 that nature. A cost benefit analysis is

6 difficult on a lot of them. The FRA grade

7 deck model is not set up for private

8 crossings. Then, of course, there are legal

9 implications involved in all of this.

10 Finally, we think there probably is

11 additional study needed, some type of a cost

12 benefit model probably should be developed

13 to deal with this issue.

14 With that, I will turn it back over to

15 Grady and to answer any questions if those

16 are coming now or later.

17 MR. COTHEN: Any questions for Bob?

18 Feel free. Thank you very much, sir.

19 Appreciate the presentation.

20 I think at this point, if you don't

21 mind, we will take a break of about ten
22 minutes come back about quarter to. Can I
23 ask anyone who would like to make a
24 presentation from the podium or from the
25 floor mic, just to step up and let us know

1 so that we can put you in order of sign up
2 and hear from some folks who would like to
3 make opening statements, and then after that
4 we will proceed to the topical discussion.

5 Thanks very much. Let's take about ten.

6 (Off the record at 10:35 a.m.)

7 (On the record at 10:53 a.m.)

8 MR. COTHEN: Okay, let's presume, if
9 we may.

10 What we thought we would do in the
11 order that we had set up was an opportunity
12 for anyone who wanted to at this point to
13 address from their perspective private
14 crossing safety issues in general, including
15 all the topics that were presented in the
16 initial notice for this activity that Miriam
17 called attention to in her presentation.

18 And that gives us a chance,
19 potentially, to get a regional perspective
20 on these issues that may differ from the

21 perspective that we might glean elsewhere.

22 And so we would invite as many as are

23 able to speak as formally or informally as

24 you wish about those issues in this segment.

25 And then what we found in doing the

1 initial meeting in Fort Snelling is we
2 covered a wide swap of issues and got a good
3 initial introduction to the topic, but it
4 didn't really give us the framework to begin
5 to dig down into some of the issue areas
6 more deeply.

7 So what we hope to do in this meeting
8 and the two forthcoming meetings was to when
9 we got into the discussion phase beyond the
10 initial remarks from anybody who wanted to
11 address a broad range of issues, we thought
12 we would try to get a bit of a topical
13 emphasis into the discussion.

14 So for this meeting, our hope was to
15 talk as much as we could about the
16 engineering issues. We thought it was a
17 particularly good forum to do that, given
18 that North Carolina DOT has been a leader in
19 innovation with respect to engineering and
20 highway rail crossings.

21 At our next meeting, which is in San
22 Francisco, is that right?
23 MS. CARROLL: Yes.
24 MR. COTHEN: We would talk about
25 responsibility as much as we possibly could

1 in terms of whose got an investment in this
2 issue and who needs to have an investment in
3 this issue. And that would include the
4 notion of oversight from the federal and
5 state level as well.

6 So private sector responsibility, when
7 I say private sector, that really has to do
8 with the railroads, whether they are public
9 and privately operated, and if they are
10 crossing holders, whether or not in many
11 cases they are actually publication
12 agencies. But other than transportation
13 agencies in other cases, they are private
14 landowners and folks who just over time have
15 acquired the right to use that crossing.

16 So, and then finally, we will get New
17 Orleans, we thought we would talk a little
18 bit about data and, you know, one of the
19 things that Bob said in his presentation is
20 that doing a cost benefit on some of these

21 projects is a bit of a puzzle. One of the
22 things that potentially FRA might do is do
23 something like offer a better tool for
24 private crossing prioritization, and that
25 might be enhancement of grade or some other

1 form of assistance, but we need to also talk
2 about the availability of data, and that
3 would include inventory and also the actual
4 data that we collect.

5 Before I forget to raise it, one of
6 the things that we would welcome as a part
7 of the filings in this document would be any
8 suggestions that you have to make about how
9 we can enrich the data elements on our what
10 we call forum 618057, which is the accident/
11 incident report for highway railroad
12 crossing, both with respect to private and
13 public crossings.

14 So what can we do to have better
15 information about the crossings themselves,
16 that's the inventory piece of the problem,
17 and then the accident/incident information
18 that we are gathering, to what extent can we
19 improve the data there? And then what tools
20 can we provide that support better risk

21 assessment, better prioritization and
22 improve the approaches to the cost analysis
23 for publicly funded projects?

24 And then we'll probably do one more
25 stop on this road show, and we haven't

1 scheduled this yet because of budgetary
2 concerns will lead into the new fiscal year,
3 but it will more likely be in New York
4 State, and we hope to have our administrator
5 present for that meeting, and there we would
6 hope to have a bit of summations across the
7 regional and issue bases that we've touched
8 in the prior meetings.

9 So we're not limited to any topic area
10 here today, but we would hope, first of all,
11 to get some regional focus on things as they
12 are presented in this area, generally south
13 of the Atlantic states and one more crack at
14 the deep south, New Orleans and those coming
15 over from the south, and then this
16 afternoon, or as soon as we can get to it,
17 as we do get to it, a discussion of
18 engineering issues at private crossings to
19 include the whole nine yards, surface, sight
20 distances, signage, automated warnings,

21 innovative treatments and that sort of

22 thing.

23 I notice that we do have signed up

24 from the West Virginia Public Service

25 Commission in attendance today Mr. John

1 Perry, John is in the back. Is there any
2 way to entice you, John, to make some
3 initial remarks about the public service
4 commission's interest in the subject and any
5 observations that you might have out of your
6 experience.

7 MR. PERRY: Yes.

8 MR. COTHEN: You are welcome to come
9 to the podium or floor mic, whatever makes
10 you more comfortable.

11 MR. PERRY: I'm John Perry, and I
12 represent West Virginia Public Service
13 Commission, where our railroad service
14 station we are under the Division of
15 Transportation.

16 I work with the enforcement section.
17 I'm signal train control inspector. I'm
18 also state coordinator for operations and
19 lifesaver, so both jobs have an interest in
20 crossing safety, and in particular, the

21 private crossings, because of the great
22 number of crossings that we have even in our
23 small state, we have a large number of
24 crossings, and a large number of incidents
25 that occur within our state have been at

1 private crossings, whether they be of the
2 commercial grade or a residential area.

3 So basically we're here to listen, see
4 what you folks have to say, see what
5 basically is going on with any rule making
6 that might be down the road somewhere that
7 we might be, you know, we would certainly
8 have an interest in that. Thank you.

9 MR. COTHEN: Thank you, John.
10 Greetings back to Mr. Baldwin, if you will.

11 Are there others from state or local
12 level organizations, public agencies with
13 interests or responsibility for this area
14 that we could encourage to help us set the
15 stage for the general discussion?

16 Okay. I would just open the floor
17 generally for opening statements from
18 anybody who wants to talk. I see we have
19 representatives here from labor, from the
20 railroads, at least one identified private

21 citizen and others. We would be delighted
22 to hear from you as to why you are here and
23 what you are interested in, and what you can
24 tell us about the subject that will help us
25 build a set of recommendations for public

1 policy.

2 Yes, ma'am, come to the podium.

3 MS. MEDLIN: Tina Medlin, T-I-N-A,
4 M-E-D-L-I-N, and I basically came today to
5 educate myself, because I am currently
6 affected by improvements in the railroad.

7 I'm also probably in a unique position
8 in that I did witness a train/car collision
9 in front of my property. Well, right down
10 from my property about 18 years ago, and it
11 was not a pretty sight.

12 I have property that borders a
13 railroad that I've had for 20 some-odd
14 years, little house in a little historic
15 community in Harnett County called Calibian
16 Springs.

17 And there's a train that goes from
18 Raleigh to Fayetteville in the morning, it's
19 great, it goes through about 7:30. If you
20 hear the whistle, you know you have hit the

21 snooze button one time too many, and then it
22 comes back in the afternoon.

23 Unfortunately, for me, when I
24 purchased the property, it was my first
25 home, and I didn't know a lot about real

1 estate, and I relied on my closing attorney
2 to adequately represent me.

3 And so I purchased this property, and
4 my access is a prescriptive easement
5 contained within the railroad right-of-way.

6 The house had been there since the turn of
7 the century, that's the 1900s, not 2000, but
8 several years after I purchased it, I tried
9 to sell it, and then I found that I had no
10 recorded legal access. But the attorney
11 said my prescriptive easement was good
12 enough to allow me to continue to have
13 access, even though it was unrecorded.

14 In the last two years, the hundred
15 acres to the north of me was purchased by a
16 developer and an industrial park is going
17 in. Access to that particular property had
18 been along a dirt road, a private crossing,
19 as I have learned today, and so that is -- I
20 suppose, that's going to be the access to

21 the industrial park that's going in. The
22 community is very concerned about it,
23 because of, you know, extra traffic along
24 the railroad lines. But I'm also a real
25 estate agent, and you can't stop progress.

1 But I am concerned about safety issues in
2 particular, because my house, the front
3 corner of my house is 37 feet from the edge
4 of the railroad right-of-way. The new
5 sighting that is going in from the
6 industrial park will be starting directly in
7 front of my home. So I'm in a bit of a
8 pickle.

9 And the reason I came today was I
10 heard on WRAL that, you know, there was
11 going to be a meeting, and I thought well,
12 I'll come and at least educate myself about
13 what are the laws. Maybe I can learn
14 something that can help get me out of this
15 pickle.

16 I'm a little concerned because the
17 industrial park that is going in next to me
18 has got a sighting, so there will actually
19 be a crossing across the railroad track and
20 the sighting, and it's going to be a reload

21 center, where they are taking railroad cars
22 and off loading and then loading them onto
23 other trains, loading them onto other 18
24 wheelers, and there will also be some
25 storage facilities there too.

1 There have been some discussions with
2 the developer about purchasing my property,
3 and he was more than happy to purchase it at
4 tax value. But I don't know anybody who
5 would sell their house for tax value, and if
6 you would, you need to see me, because that
7 would be a listing I could sell very
8 quickly.

9 So in this little historic community,
10 we have some concerns. And I can't speak
11 for everyone else out there, but I really
12 wanted to understand more about, you know,
13 what the rules and regulations were for the
14 crossings, how that could possibly, you
15 know, impact me, in between, you know, one
16 that's a public right-of-way crossing and
17 then of course the private. And I'm kind of
18 in between the two and how that would affect
19 me and what the laws and the regulations
20 are, and you can talk to six different

21 attorneys and get six different opinions as
22 to what my particular situation is. I'm
23 just kind of waiting to see what's going to
24 happen. In the meantime, my access has been
25 cut off to my house, and my water lines have

1 been dug up, and, of course, I can sue if I
2 can come up with, you know, enough money to
3 hire an attorney to sue a wealthy developer
4 that told me he gets what he wants.

5 So that's why I'm here. I wasn't here
6 because I was in the wrong room. I really
7 just wanted to come in and see if I could
8 educate myself a little bit better about,
9 you know, what's going on, what the plans
10 are, understanding the differences between,
11 you know, private crossing and industrial
12 crossing and a commercial crossing and was
13 hoping I might hear a little bit about
14 sightings and how those are okayed, approved
15 and, you know, by what entity and things
16 like that. And so that's why I'm here.

17 MR. COTHEN: Thank you very much. And
18 your appearance is very useful for us, you
19 know, in terms of our understanding of this
20 use. Just based upon what I think I heard,

21 it sounds like you've got a developer of an
22 industrial park that's going to benefit
23 significantly from access over the crossing,
24 and a railroad that's going to benefit from
25 increased business. And you are stuck in

1 between. If you want an opinion, by the
2 way, I will give it to you free of charge at
3 the break, and it will be worth what you pay
4 for it, particularly since I'm not admitted
5 in North Carolina. But it is a very
6 difficult, complex of issues viewed from a
7 national perspective. So I can only imagine
8 what difficulty you may face under those
9 complicated circumstances.

10 Generally, I think it's fair to say,
11 and we've got a lot of railroaders in the
12 room, correct me if I'm wrong on the
13 railroad right-of-way, generally railroaders
14 have significant latitude to build out their
15 facilities to meet their service needs.

16 There's a general supervision of that by the
17 transportation board, which succeeded the
18 interstate commerce commission's
19 responsibility for this to be normally,
20 unless a line being extended will not get

21 into the issue of augmenting existing
22 facilities, such as building a sighting,
23 industrial sighting. Normally, they will
24 view that as an activity that is within the
25 purview of the railroad. Obviously, when a

1 second main or new sighting goes in, whether
2 it's industrial sighting or whether it's a
3 passing sighting, when the road is used to
4 expedite movement of its trains, there's an
5 impact on the private crossing, the safety
6 of persons using private crossings as well
7 as other impacts in the community.

8 The other side of that is if the
9 railroads didn't adequately invest in
10 facilities to meet service needs, we would
11 face more trucks on the highway where
12 congestion is announced by the secretary of
13 transportation as the central issue that we
14 face in terms of meeting the needs of the
15 economy, in terms of meeting our needs of
16 citizens in terms of mobility.

17 We are all squeezed by these issues,
18 no one certainly more than yourself. So
19 thank you very much for taking that
20 opportunity to bring that example to light.

21 Are there others who would be willing
22 to step up to the plate and offer some
23 perspectives, issues, questions that we
24 should keep into consideration as we
25 consider these issues going forward?

1 We will get Danny Gilbert go and

2 Leslie, come on up and when Danny is

3 through, then you go next, okay?

4 MR. GILBERT: Danny Gilbert, Rail

5 Safety Consultants, spent 36 years with the

6 railroad. And as most of you know, whenever

7 you have a new meeting, you don't have a new

8 meeting, you have a rehashing of an old

9 meeting. And I guess my question would be

10 in 1993, this same type of meeting was held,

11 and what I believe some good, hard data was

12 in a draft preliminary guideline for private

13 crossings.

14 Railroads, I believe, have done a

15 great job as far as trying to close private

16 crossings, consolidate the private

17 crossings, developing signage to help

18 facilitate safety issues. But it's getting

19 to the point where it's more difficult to

20 consolidate closed crossings and work on

21 some of these private crossings. And the
22 document although may not be the best
23 document in the world, it has a lot of good
24 guidance that we could start with. It talks
25 about the holder responsibility. It talks

1 about warning devices. It talks about
2 closures.

3 One of the biggest issues is who is
4 the user? Does the user have a legal right
5 to use that crossing? And in this document,
6 it says: If you can't find anybody with
7 responsibility that would accept the
8 responsibility of the crossing, it should be
9 closed.

10 So I guess my question is why would we
11 not take and build on this document instead
12 of start from scratch? I believe there's
13 some good language in here that can help the
14 railroads, help the states as far as
15 closure, as far as responsibility for a
16 crossing that you don't have any idea who
17 uses it.

18 So this is a document that I've had
19 for a number of years, and I've talked to a
20 lot of people, and no one has seen this

21 document in years.

22 So my suggestion is start with what

23 you've got, and then let's build on it from

24 there.

25 MR. COTHEN: Thank you, Danny. Our

1 corporate memory here, some of us at FRA
2 participated in the development of that
3 document, and then administrator Gil
4 Carmichael wanted to do something for
5 private crossing safety, and he said you all
6 get on it, and so we did and we circulated
7 the document. We held a session in St.
8 Louis to review the guidelines, and we can
9 certainly arrange to have a copy of the
10 draft guidelines placed in the docket of
11 this proceeding.

12 The reaction of the railroads in
13 general at that point was go away. At one
14 point, we were told you don't have any right
15 to issue guidelines. And at the same time,
16 at the same time, the discussion that we had
17 in St. Louis was excellent. The railroad
18 officers and attorneys who were working on
19 the private crossing issues at that time
20 quite aggressively, and have since, by the

21 way, came to the meeting and talked about
22 what they were trying to do, some of the
23 issues that they face and some of the things
24 that they managed to accomplish.
25 And so I thought it was a very

1 productive dialogue, notwithstanding the
2 official pronounced position of the
3 railroads as a community nationally that FRA
4 didn't really need to be in the game.

5 And so, you know, we tucked our tails
6 between our legs and we went away for a
7 while, promising to return to the issue when
8 we had the opportunity in terms of adequate
9 resources.

10 Since that time, we've talked about a
11 number of highway rail crossings, just so
12 you know, of late hoping it would be put to
13 bed as much as we possibly could, the train
14 line issue. Although it may never die.

15 And, of course, many people, including
16 Ms. Spurlock, who will have a chance on the
17 floor next, are spending a lot of time in
18 communities as well as others in the room
19 working on quiet zones under that
20 regulation.

21 So now it's the season again, a little
22 more than a decade later, to return to the
23 topic, and rather than assuming we had the
24 delivered wisdom at that time when we had
25 only draft guidelines in our hands, we

1 thought we would start from scratch and see
2 if rather than threatening people with draft
3 guidelines, which is how we started the last
4 one, we could kind of build it from the
5 ground up and understand where we are today,
6 how the situation may have changed and get a
7 perspective more widely of communities,
8 states, railroads, their employees and
9 others who might have an interest in this
10 matter.

11 So that's kind of the issues and
12 approaches and topics. They are certainly
13 not forgotten. And we may use it before
14 it's over, use it as a basis for drafting,
15 but I don't know about that. We will see
16 when we get to the end of this road.

17 The end of the road, by the way, we
18 hope to have, you know, a report on these
19 activities, the Volpe Center will help us
20 assemble and hopefully that will be a useful

21 and very public document, which we will have
22 available on our web site that everybody can
23 use as a reference going forward, regardless
24 of what path we choose to take collectively.

25 Thanks, Danny. I'm glad somebody

1 remembers that we took a shot at it once
2 before.

3 Leslie Spurlock is with us from FRA
4 Region 3, headquartered in Atlanta, and
5 she's willing to help us fill the silence,
6 Leslie.

7 MS. SPURLOCK: So now that I've been
8 introduced, do I say my name again?

9 One thing that I've thought of while
10 you have been talking about the private
11 crossings is you get a number 94,000,
12 95,000, even as we speak, there's probably
13 ten more that have been put in. And I get a
14 lot of complaints in my office about blocked
15 crossings. Then when I call and follow up
16 with the railroads, come to find out that
17 was a corn field or a hundred acres of
18 forest that someone has sold and cleared and
19 there's one, two, three trailer homes on it
20 now. Usually, you know, a lot of them are

21 family related. Well, suddenly you've
22 created a surprise problem for the
23 railroads. Not only is that an illegal
24 private crossing, but they now have to take
25 into consideration if somebody is there,

1 where they were stopping to pick up supplies
2 or trees or something before, now they've
3 got complaints about them, and it's just
4 something if you could take into
5 consideration in the future, that if any
6 land is sold, what are you going to do that
7 these new folks know about crossings? Can
8 it be prohibited? Because part of me really
9 feels for the railroads, that these small
10 plots of land are popping up, and they've
11 suddenly got a new crossing, that the
12 feeling is with the homeowner, the
13 landowner, and the big bad railroad, and
14 that's not really the situation.

15 So please consider a way that maybe
16 new crossings can be controlled and not just
17 pop up overnight that nobody knew about
18 them.

19 MR. COTHEN: Okay. Private rail
20 crossings intersection between a roadway and

21 highway of interstate commerce, to use the

22 term that's being used, and Leslie is

23 calling to attention the plan. Thank you

24 very much.

25 Yes, sir, Jason field.

1 MR. FIELD: My name is Jason Field.

2 I'm with NCDOT's rail division. I'd like to

3 expand a little bit on what she said, that

4 is, an issue that we have a great deal of

5 problem with in the State of North Carolina,

6 where you have private crossings that a

7 developer purchases, and two or three years

8 down the road you end up having an 800

9 homes, banks, all kinds of other development

10 that is based on a private crossing, and

11 we're running into an issue with that in

12 this state in trying to figure out how to

13 address that.

14 So, you know, some kind of guideline

15 in regards to private crossings and being

16 shifted to public usage and things certainly

17 should be something considered in anything

18 that comes out.

19 MR. COTHEN: Jason, is there -- do you

20 have any kind of charter document at NCDOT

21 in terms of what approach to take to
22 adoption of private crossings, putting them
23 in the public system?

24 MR. FIELD: Well, we have standard
25 procedures we follow for any roadway. If

1 it's built to DOT standards, the private
2 owners can pursue with the state to have it
3 brought onto the state system, or the
4 municipal system if it's in that area. But
5 the problem we run into in a lot of cases,
6 the rail division is not part of those
7 discussions early on, and you end up having
8 a problem before you are able to do anything
9 about it.

10 And then in addition to that, due to
11 political pressures, a lot of times we are
12 in a place where the developers are not held
13 accountable for bringing in the significant
14 development that's adding to the traffic
15 issues, as well as railroad handling issues
16 and grade crossing safety, and then
17 everybody looks to us to go fix this
18 problem. And it's a tremendous problem,
19 and, you know, in a lot of cases we find the
20 private crossings are not built to any kind

21 of standard.

22 I had one location where when they

23 were putting traffic loops down, the foot

24 pedestals that they put down for the traffic

25 loops were punched through the pavement. We

1 ended up ripping everything up, which got
2 within the water lines, which were an inch
3 below that pavement for the bank and a few
4 other facilities, and end up having to fix
5 that, and there's no general guideline from
6 the private crossing standpoint where things
7 had to be built a certain way. So they do
8 what gets them by, and then when it becomes
9 a public usage crossing, you have
10 substandard infrastructure in place that
11 everybody looks to the state to fix, you
12 know, which in turn the cost benefit in some
13 of these cases that was very good becomes
14 less so.

15 You know, there are processes to bring
16 these roads onto the system as far as the
17 developer who is creating the problem,
18 basically in developing these properties and
19 hanging the price tag of fixing the
20 infrastructure on the state once they leave.

21 MR. COTHEN: Thank you very much.

22 MR. WORLEY: I have a comment. One of

23 the tasks that I see that perhaps could be

24 done between, you know, one of the things

25 that we talked about years ago is with the

1 grade crossings, is that local and county
2 engineers, municipal and county engineering
3 don't have a very good understanding of
4 grade crossings. So we went through this
5 process of the technical work group, the ITE
6 document, which is pretty helpful for folks.
7 Perhaps one of the things we are able to
8 look at is land use planners in counties and
9 towns coming up with some kind of document
10 or some kind of guide of working with
11 American Planning Association or even the
12 University of North Carolina's planning
13 department type, those type of folks to come
14 up with a document that gives information
15 about the railroad, about crossings,
16 compiles some laws, regulations, concerns
17 and so on and make that a document that's
18 available to local land use planners,
19 because I know there is a flat effort
20 towards smart growth and being better

21 regulating and controlling development, and
22 that may be a good tool that can be used by
23 those local planners with information that
24 would be very good for them. That's just a
25 thought there.

1 I don't think they are really aware of

2 what they are dealing with with the

3 railroads. I know in talking about with

4 some of the city planners in Greensboro,

5 they were trying to do a lot of in-field

6 development. And once they do that, they

7 realize they have a crossing nearby and

8 people go back to the city want to know why

9 it's up.

10 One of the things they talk about is

11 perhaps they go ahead and assess a fee or

12 look at some of this new development and

13 have that considered in some of costs of

14 redeveloping these areas, what crosses or

15 devices, so there are a number of factors

16 that planners are more agreeable to assist

17 with these days and consider when they are

18 looking at planning.

19 MR. COTHEN: Thanks, Paul. It sounds

20 like you have an action item in this

21 activity for sure among others.

22 Maybe we can jump start that by making

23 some outreach at the national level at the

24 American Planning Association or any other

25 groups that might be good contacts.

1 Others that we can call on to speak

2 generally about issues that have come to
3 their attention?

4 Now, I've got to just be stern with
5 you at this point, okay? I've got to be
6 stern with you. We had railroads at the
7 first meeting, normally we have a table, you
8 know, it will be in rectangular sort of set
9 up, and everybody comes to the table and we
10 have the advisory committee, we have a
11 series of working groups, where we have
12 labor, management, suppliers, states and
13 past organizations and others participating
14 in standards development, and everybody
15 comes to the table and everybody has a say.

16 Now, this is the second of our
17 outreach sessions, and when we were in Fort
18 Snelling, we had some very knowledgeable
19 railroaders present. Labor, for example,
20 talked. We had one introductory paper from

21 the Association of American Railroads, which
22 was, I understand, a good deal shorter than
23 the original draft. And then we had some
24 folks from the rail industry who would
25 answer questions very adeptly, factual

1 questions, but from a policy standpoint, we
2 really had a dearth of substantive input
3 from the major railroads.

4 So Cliff Ebie, who is our deputy
5 administrator at the railroad safety
6 advisory committee meeting, made a point to
7 say you got to be at the table. You need to
8 be at the table. And, of course, we are not
9 in a rectangular setup here, so what that
10 means you need to be on the podium or the
11 floor mic at this stage.

12 We have some very knowledgeable
13 railroad people here from labor and
14 management, and they work with these issues
15 all the time. And we we'd love to hear from
16 you. If we don't, we're going to do
17 whatever the heck we want to do.

18 MR. CRUZ: I'd like to talk about
19 inventory issues.

20 MR. COTHEN: Good. He is going to

21 bail us out.

22 MR. CRUZ: My name is Ric Cruz. I

23 worked with inventory as project engineer

24 data manager, C-R-U-Z.

25 One of the issues that we'll have to

1 deal with as far as acquiring the data
2 that's necessary to do all of our studies
3 and modeling is actually collecting the
4 data.

5 Private crossings in North Carolina,
6 particularly there's probably about 4 or
7 5,000 we are talking about doing, right now
8 the general statutes do not allow us to go
9 on those properties. And as far as the
10 general statutes, do not allow us to spend
11 money going in and inventorying those
12 particular crosses. We do have access
13 through the general statutes to go on there
14 for a particular reason, if we have to go on
15 there and find information.

16 However, the biggest problem we have
17 is that current data that we have in our
18 database system is very, very old. Some of
19 it dated back to 1974. Some of it is even
20 nonexistent. Most of the data as far as the

21 railroads are concerned, as far as railroad
22 traffic and private crossings is
23 nonexistent. We don't know how many train
24 moves or movements we have there or
25 capacities on those particular rail lines at

1 all.

2 If we are tasked to acquire that data,
3 it's very arduous undertaking as far as
4 getting that information. It's something we
5 have to consider. It's going to take time.
6 It's going to take money. And right now
7 there is no good data on that. It's
8 something we will have to think about.

9 MR. COTHEN: One of the things that
10 intrigued me is a work-around, Ric. We're
11 getting to the point where we think we can
12 place most of these crossings on a GIS
13 database. Some years back it was 85 percent
14 we could successfully put it in place. I
15 keep waiting for somebody to say we are at
16 98 percent, but nobody said that yet. But a
17 great number of these crossings with the
18 information in the inventory has seemed to
19 be put on a GIS platform.

20 MR. CRUZ: A lot of the information

21 that we have, the railroad crossings from
22 FOA, we have actually checked those, and
23 found there's a lot of error built into
24 them, and they are not very accurate.

25 We have done a lot of GPS, GIS work in

1 North Carolina public crossings, and in so
2 doing, we have been able to get -- update
3 our map systems to the point where they are
4 fairly accurate. Every chance we get while
5 we are out there on the rail line, we also
6 try to do the private crossings, locate them
7 specifically on the maps. So we happen to
8 do that.

9 And what we can have readily, been
10 getting to these crossings closest to the
11 roads that are operating parallel to the
12 railroad, then we try to get that
13 information also.

14 But for the most part, the biggest
15 problem we have with private crossings is
16 they are not numbered, and it's hard to find
17 which one we are dealing with when we are
18 out there.

19 And then there's a lot of crossings
20 out there that are not on our database at

21 all and trying to resolve those issues with
22 the railroad, sometimes it's a problem that
23 we have, and a lot of times the railroads
24 aren't too sure about the information either
25 when they go back and forth as far as who

1 owns that crossing, and most times some of
2 these crossings they don't even know they
3 are out there.

4 So as far as that's concerned, the GIS
5 and GPS information that we have is really
6 pretty good on the public crossings, and as
7 far as our mapping is concerned, some areas
8 that we have it's been done in the past, but
9 they are not very accurate, they are a
10 hundred meters off so.

11 MR. COTHEN: With information on your
12 database on the rail traffic public
13 crossings, being that they tend to be
14 interspersed, do you have the ability to
15 convey, from an eyeball standpoint, the
16 amount of traffic to which on a particular
17 line the private crossings are exposed?

18 MR. CRUZ: Rail traffic or?

19 MR. COTHEN: Rail traffic.

20 MR. CRUZ: That's something else we

21 could probably do that, and there's ways we
22 can do that electronically with the data.
23 But it all is dependent on the accuracy of
24 the train movements and counts that we get
25 from the roadways, and that is where unless

1 we have a line that's been studied, then we
2 can rely on information from those.

3 A lot of the other lines all through
4 the state, there's not real accurate data on
5 train movements. We have been working with
6 the class one railroads on that, and
7 hopefully this fall we will be able to start
8 sharing more of that type of data.

9 But as of right now, we don't have --
10 I don't have confidence in the data that we
11 have to be able to assign numbers on those
12 private crossings, just based on the data
13 that we have on record.

14 MR. COTHEN: Any of this discussion
15 with regard to these issues, I guess, you
16 are off the hook. Thank you very much.

17 MR. CRUZ: Thank you.

18 MR. COTHEN: Okay, others? Again,
19 it's wide open to anything related to safety
20 at private highway rail crossings, or for

21 that matter the impacts we have on
22 communities. When we try to affect safety
23 and public highway rail crossings, we need
24 to know both sides of it.

25 Okay. What I would suggest is -- I'm

1 sorry.

2 MR. BRYANT: Can I speak?

3 MR. COTHEN: Please.

4 MR. BRYANT: I notice you've got some
5 representatives from the railroad coming. I
6 was wondering if they were going to speak
7 today? I too was sitting on the --

8 MR. COTHEN: Can you state your name
9 for the record?

10 MR. BRYANT: My name is John Bryant.
11 I'm not with the railroad company.

12 I was standing on the Pre-Core today
13 at the YMCA, and I learned about this
14 meeting on WRAL news, just like you did.

15 But I think one of the things as a
16 member of the public that I'd like to see
17 happen is there's not any national standard
18 for, I don't think, construction and
19 maintenance of grade crossings, either
20 public or private. I'm a trial lawyer. I

21 have a client that's involved in a case that
22 is a maintenance issue from a crossing. And
23 according to the folks that we have talked
24 to during the course of that case, there's
25 not any way to determine how grade crossings

1 are supposed to be maintained for the safety
2 of the vehicular public for the life of the
3 crossing. The only things that have been
4 handed down to this particular defendant,
5 the only things that have been handed down
6 over the years in the case that I'm involved
7 with, because I think it's important that
8 you all know what goes on, I will give you
9 just a little bit of factual background of
10 what happened there so that you can have
11 some importance to place not only on the
12 collision between the train and the vehicle,
13 but also because of the safety in passing
14 over the tracks.

15 In my case, the theory of the
16 plaintiff is that the tracks became decayed
17 over a number of years, because no
18 maintenance was performed on them. And the
19 railroad admitted that for 20 years, nothing
20 was done to maintain or check over these

21 particular tracks.

22 My client was holding a screwdriver

23 when they passed over this rail. It got

24 stuck on the rail and deployed the air bag,

25 which shoved a screwdriver into his

1 cheekbone through his sinus cavity up into
2 the orbit of his eye.

3 So it's not always, even though the --
4 most of what you are going to see is going
5 to be the collision between the train and
6 the car, I know those are really
7 catastrophic events. But I think that
8 because of the fact that the railroad
9 companies are not left with any guidance
10 about how they got to maintain those
11 particular crossings, it's only handed down
12 to employee, to employee, to employee over
13 the years.

14 Some of the evidence that we heard in
15 the case was that they were supposed to
16 maintain the crossing the way that it was
17 put in, and try to keep it that way for the
18 life of it, which is a good and noble thing
19 to do, but I think if you have in the
20 crossings, either private or public, if you

21 have the rail and the crossing timbers that
22 are on either side of the rail, which are
23 eight inches by eight inches when they are
24 wooden, I have learned. I didn't know
25 anything about railroad crossings a couple

1 of years ago. And they are supposed to be
2 flushed with the rail to keep cars that
3 might be lower-riding cars or low boards
4 like you were talking about earlier, from
5 getting hung up on those things, and if that
6 is something that is a great geometric
7 configuration, I don't think that the rails
8 here in North Carolina are any different of
9 the rails that exist in the state of Wyoming
10 or any other place in the country.

11 That's why I think it begs for a
12 national standard, so that if the rail
13 companies have a lot of tracks to keep up
14 with and have a lot they have to take care
15 of the safety -- according to the North
16 Carolina General Statutes, have to take care
17 of the safety of the motoring public also,
18 and they also have to take care -- making
19 sure that the train stays on the tracks, so
20 these are the two things that they are

21 confronted with, for us to have a national
22 standard at track safety crossing, I think
23 is what we ought to try to accomplish.
24 Because not just for the trains and not just
25 for the collision between the trains and the

1 cars, but also for the construction and
2 maintenance of the rails themselves at the
3 grade crossings.

4 MR. COTHEN: Thank you, sir. I
5 appreciate that perspective.

6 So that the issue that's brought here
7 is one of surface, and I will posit to be
8 corrected that this public crossing in
9 general, sharing of responsibilities that
10 are normally outside the rails' public
11 authority, maintaining the surface and the
12 gates, the railroad maintains the surface?
13 Somebody direct me.

14 MR. RIES: Generally, it's over the
15 track structure. On some states, it might
16 go out another foot or so, and it would be
17 the railroad's responsibilities.

18 MR. COTHEN: And the ties and the
19 ballasts sections?

20 MR. RIES: And the ties.

21 MR. COTHEN: And in the case of
22 private crossings the standard is?
23 MR. RIES: If there's agreement,
24 typically it would be the agreements are
25 usually written to be the property owner's

1 responsibility to pay for the maintenance,
2 and the railroad would do the work actually
3 over the track surface.

4 MR. COTHEN: If there's agreement, and
5 we learned today that there's seldom an
6 agreement, I mean, fiscally speaking, this
7 is consistent with what we heard in
8 Minnesota as well.

9 There will be more agreements if the
10 situation were clearer, I'm sure, because we
11 know that railroads try to work aggressively
12 to close crossings where possible and to
13 make sure that they are maintained safely.

14 Maintaining crossing surface is
15 obviously something that's a challenge,
16 given the number of highway rail crossings
17 that needs to be attended to.

18 So thank you for that perspective. We
19 need to always remember, and this is the
20 case where we want to talk about

21 engineering, but certainly includes all

22 aspects of the crossing surface.

23 Other comments before we break for

24 lunch of a general nature?

25 I'm glad we had our public appearance

1 staff put out the press release, and we are
2 grateful that the outlets here have taken the
3 opportunity to notice the meeting and bring
4 in a couple of folks.

5 MR. RIES: Just also to note, thanks
6 to North Carolina DOT who put out their own
7 press release about this as well.

8 MR. COTHEN: That's right, yes.

9 Thank you very much, Paul and Pat and company.

10 What we would like to do, I think at
11 this point, is we will take a break, make
12 sure that we have time to set up. We will
13 go -- in order for you to be able to get
14 your lunch conveniently, take any calls you
15 need to take, we will come back at one
16 o'clock.

17 Is there any information about
18 cafeteria facilities? There's information
19 at the back and cafeteria on site. We will
20 be back at one o'clock and try to set up in

21 rectangular fashion and railroads will be at

22 the table. Thank you.

23 (Luncheon recess)

24 (Off the record at 11:46 a.m.)

25 (Continued on next page)

1 A F T E R N O O N S E S S I O N

2 (On the record at 1:01 p.m.)

3 MR. COTHEN: Okay, let's resume,
4 please. We set up optimistically, and we
5 almost filled out the table. I appreciate
6 those of you who were able to return for the
7 afternoon session.

8 As we indicated this morning, what
9 we'd like to do, without prejudice at all to
10 taking on other topics if they arise, is to
11 get some traction, if we can, on engineering
12 issues related to highway rail crossing
13 safety and private crossings in particular.

14 And we know that we got the manual for
15 uniform traffic control devices, AREMA and
16 AASHTO standards and so forth as potential
17 sources, among others, to apply principles
18 used at public crossings, private crossings.

19 But we also got some peculiar and special
20 circumstances. We don't have many public

21 crossings where it's required to farm and
22 only to combine and traverse only a few
23 times a year in season, and that sort of
24 thing.

25 And we also have the issue of

1 resources, which is not a trivial issue when
2 you consider over 90,000, apparently,
3 locations that need to be addressed.

4 So if we can, we will ask Anya Carroll
5 from the Volpe Center to begin to generate
6 some discussion here, give you a little more
7 background on the topic and take us through
8 questions and issues. Anya.

9 MS. CARROLL: Thanks, Grady.

10 Good afternoon, everybody. What I
11 figured we would do, because you are such
12 gracious visitors to this meeting, is take
13 you through some of the highlights of the
14 Minnesota meeting that we had, and maybe
15 identify some other states that may have
16 similar and other railroads that may have
17 similar concerns that you have to try and
18 stimulate the conversation.

19 The same list of questions which you
20 have a copy of in the back of the federal

21 register notice were asked of the Minnesota
22 delegation at their public meeting. And so
23 we had some statements made by Minnesota
24 DOT, which basically corroborated the fact
25 that they have no regulations over private

1 crossings other than insured farm crossings.

2 They had issues over the cost of
3 closing private crossings and local
4 jurisdictions that do not want to maintain
5 private crossings.

6 They expressed the lack of funding for
7 grade separations, and whose responsible for
8 maintaining any traffic control device that
9 would be placed at a private crossing, if
10 that were possible.

11 Iowa DOT was present with us in
12 Minnesota, and they were looking for some
13 political will to close crossings, to allow
14 local and state jurisdictions to be able to
15 move that to fruition.

16 Canadian Pacific Railroad was with us,
17 and they mentioned some new guidance, new
18 regulations that transport Canada will be
19 bringing forward in the form of what they
20 call RTD-10, I think. In their terms, they

21 do not use the terms public versus private
22 crossings. They use the term restricted
23 versus unrestricted crossings.
24 So that's information for you to think about.
25 Transport Canada also has a research

1 team, they are IBI Group in Canada to look
2 at the same issue of private crossings. So
3 they will be coming out with a report, I
4 would say, within the next six months to a
5 year on the Canadian experience with private
6 crossings.

7 They did some initial literature
8 survey in that research. They went out and
9 surveyed users and railroads off the private
10 crossings. So that should be an interesting
11 document.

12 Minnesota DOT also mentioned at our
13 previous meeting that they may not have
14 state resources available, even if there was
15 funding coming to the state, to deal with
16 private crossings. And even to do an
17 inventory of private crossings, felt that
18 they wouldn't -- they might not necessarily
19 have the staff if they received funding to
20 do that.

21 Minnesota DOT does mandate yield signs
22 through their state for private crossings,
23 and that they feel that there should be some
24 sort of criteria in the MUTCD applied to the
25 issue of private crossings.

1 One discussion point that came up was
2 having a bibliography of all the reports
3 that may impact our considerations about
4 private crossings. And Volpe has been
5 tasked by the FRA to try and put that
6 information together in the form of a
7 spreadsheet with links to the documents that
8 will be put in the FRA docket on this
9 matter.

10 And Danny, as far as you are
11 concerned, I think it's a good idea to put
12 those old 1993 guidelines in as part of our
13 bibliography. So we will move ahead and do
14 that.

15 We did talk a little bit about
16 insurance issues, and the fact that there's
17 no legal documentation available to provide
18 a basis for negotiation to close private
19 crossings or even to formally acknowledge
20 where those crossings are.

21 And then we got into a long discussion
22 about the engineering design and the types
23 of categories. And you should have a
24 handout, that's an excerpt in your packet
25 that talks to a lot of what you mentioned,

1 Paul, this morning about the different types
2 of crossings. And we are going to be using
3 that in a few minutes to talk about well,
4 how do we treat each one of these and how do
5 you determine how they fall in each
6 category?

7 There was an example given about types
8 of categories that the levy association in
9 Iowa is not considered a highway authority,
10 so even if they may have roadway access to
11 their levies, it's not a public roadway.

12 That was one example that was given.

13 In Wisconsin, from the DOT, the
14 railroads must negotiate with private owners
15 for new crossings.

16 So before a new crossing can be
17 established under responsive DOT rule, the
18 railroads must negotiate with the private
19 owner, I guess, and have some sort of
20 contractual agreement before that would be

21 allowed.

22 Also in Wisconsin, the local

23 jurisdictions are urging any new

24 developments to keep them private and not

25 make them public, so that the public doesn't

1 assume the responsibility.

2 Also, in Wisconsin, the state pays
3 25 percent of the maintenance fees for the
4 public crossings.

5 We talked about what's a public
6 crossing and what's a private crossing in
7 Wisconsin. If you have a public roadway on
8 both sides of the crossing, it's then a
9 public crossing. If it's a private road,
10 then it's considered private.

11 MR. BROWDER: I don't quite
12 understand. If it's a private road, it's
13 considered private?

14 MS. CARROLL: If it's public on both
15 sides, it's considered public. If it's
16 public on one side and private on the other,
17 it's considered private.

18 The types of users that use the
19 crossings were of concern, and also what the
20 public purpose is for each one of these

21 crossings, whether it be commercial access
22 to a Wal-Mart, or recreational access to a
23 boat ramp. How do you determine this, and
24 how do you categorize them and what their
25 needs are for any type of traffic control

1 device for one to be placed there?

2 There's also the data collection issue

3 that was a big topic. Minnesota mentioned

4 that the Federal Highway Administration has

5 limited interest in crossings in general but

6 private crossings as well, limited resources

7 from the states. We heard a lot of that.

8 And then we talked about well, who

9 could we partner with to discuss these

10 issues? And for this meeting, we sent out

11 over 600 invitations to multiple

12 organizations to include trucking

13 organizations, agriculture organizations,

14 metropolitan planning organizations, so

15 we'll still continue that outreach.

16 Some of the people that were

17 identified as far as partnering was the

18 Federal Highway Administration, the National

19 Committee on Uniform Traffic Control

20 Devices, AASHTO, AREMA, APTA, TRV, the

21 Bureau of Transportation and Statistics, the
22 National Highway Traffic Safety
23 Administration, the bus industry,
24 specifically school buses were mentioned,
25 federal transit, the AAR, the Short Line

1 Association and possibly even considering
2 looking to DOT as far as security issues as
3 Paul mentioned in his speech earlier.

4 So that was sort of a high-level
5 summary of what we discussed. The docket
6 will soon have the full results of the text
7 that was taken by the stenographer in
8 Minnesota, so you are able to read word by
9 word of what went on there.

10 So with that, I think we want to move
11 to -- does anybody have any comments or
12 questions regarding the statements I just
13 made about our Minnesota meeting?

14 Is anybody interested in providing a
15 starting point for crossing categorization
16 or engineering design of a particular type
17 of crossing, or issues we may have, trying
18 to do that?

19 Bill Browder?

20 MR. BROWDER: Since the railroaders

21 have been silent.

22 MS. CARROLL: Please, Bill, use the

23 mic and introduce yourself.

24 MR. BROWDER: Bill Browder from the

25 AAR. Is it working?

1 One issue that arose a little bit this
2 morning from John Bryant that categorized
3 standards and practices was the one
4 concerning vertical alignment that was
5 addressed in the accidents that shouldn't
6 happen.

7 Back in March of '96, as a result of
8 Fox River Grove, which in some ways is
9 identified as hump crossings, that
10 short-term objective was to provide some
11 kind of indication which the MUTC did with a
12 sign. But the long-term objection was to
13 put together a group, which I was a member,
14 Bruce George; Fred Small; AASHTO; AREMA;
15 which was AREA at the time, and the Short
16 Line Association, and as a data collection,
17 we did a survey, which should be on your
18 files, of crossing conditions that could be
19 identified as vertical alignment issues, and
20 in particular, identifying them at that

21 point from public crossings.

22 What happened with that report was

23 that they recommended to those members that

24 a technical committee be appointed to adopt

25 recommendations from the stakeholders.

1 Although that committee was appointed, I
2 don't think anything ever got done. I don't
3 think they ever met. And it certainly
4 hasn't gone anywhere without -- with the
5 agent or one of the basic problems I know
6 was the frustration of trying to address it
7 without any -- with the stonewalling,
8 basically, of the highway side in terms of
9 wheel -- distance between wheels and height
10 above ground of equipment, and Bruce George
11 tried to promote an effort that avoided
12 that, I guess, is the way I would
13 characterize saying that issue. But if
14 something is to be done in terms of ITS to
15 address those issues, and I don't know if
16 that's germane to private crossings or not,
17 that's a great place to start in that
18 endeavor.

19 Also, in terms of standards, and I'm
20 repeating myself in saying that the

21 railroads are not the experts on the highway
22 side. And in terms of private crossings,
23 there is certainly, as has been identified
24 in my mind, a continuing lack of highway
25 side authority or interest in providing the

1 authority. And the only thing that the
2 railroads have been able to do from that
3 perspective, quite frankly, has to be, it
4 has to endeavor where private crossings do
5 exist to obtain agreements. And as you can
6 see, our track record is not good. And it
7 isn't from a lack of trying to obtain
8 agreements.

9 CSX several years ago had a very
10 assertive policy, not aggressive, to obtain
11 agreements on private crossings that they
12 did not have agreements on. And after about
13 a year, they were completely frustrated, in
14 many cases by local judicial authority that
15 threw their cases out of court when they
16 attempted to obtain some kind of action that
17 would require a good faith negotiation, and
18 even to the point of arbitration as far as
19 some sort of written agreement. Some
20 landowners that already crossed, just

21 absolutely refused to have anything to do
22 with any kind of agreement. And I really
23 appreciate, Grady, you saying this morning
24 that the railroads were doing a god job. We
25 don't hear that very often. I'm sure you

1 don't hear it very often either from other
2 constituents, that the railroads are using
3 the money and laden, heavy-handed people
4 that are out there and are not good, solid,
5 business citizens of communities and
6 stakeholders.

7 In my 38 years in the railroads, I
8 think railroads that I have been associated
9 with have always tried to be good business
10 citizens of communities where they are
11 involved. Certainly, as Gil Carmichael had
12 said, there are way too many crossings and
13 the work group has been the private
14 crossings out there that proliferate the
15 countryside and the lines, and certainly
16 each of these crossings has a certain
17 exposure to safety, not only to the
18 individuals that use the crossing, but to
19 the train crews that traverse it.

20 And so I'm pleased to hear that we're

21 at least at the table in terms of trying to
22 develop areas where there are commonalities.

23 Now, the bad news is that I'm not sure
24 that we in the railroad industry have total
25 commonality out there as far as where we

1 want to be. And, again, that stems from the
2 fact that we're dealing with 49 different
3 states as well as hundreds of local
4 authorities and literally thousands of
5 individual landowners and individuals who
6 represent everything from stadiums to
7 parking lots to strip malls to shopping
8 malls.

9 And I think there are some good, basic
10 things that have come out of what we've been
11 talking about from an engineering standpoint
12 that are basic areas that could be
13 addressed.

14 There is in the AASHTO green book and
15 AREMA, a standard for highway railway
16 crossings, highways, either through the rail
17 end of the crossing and to a certain number
18 of feet outside the rail at a point, and it
19 depends on the angle of the crossing and the
20 rail, so I'm not going to give you feet, but

21 you can look it up and make it part of the
22 record. The problem is that nobody else is
23 out there doing anything that addresses any
24 kind of potential standards or practices
25 that can be agreed to on the highway side.

1 Again, we have certain things that we

2 have even committed to.

3 If you go back to that report,

4 basically the railroads committed, and this

5 is really nothing new, I always heard it

6 when I was a civil engineer, well, you come

7 through and you timber and services crossing

8 and raise it up every time. You see that

9 crossing over there? You timber and service

10 it, and it's way up in the air and it didn't

11 get up that way with timber and servicing.

12 In most cases, I can tell you from hands-on

13 experience putting in crossings that you

14 actually have an issue in terms of

15 settlement in the highway end of the grade

16 crossing. And yes, we do put some elevation

17 when we go through and timber and surface

18 it. But by six months afterwards, if we've

19 done it right, it settled back to where it

20 originally was, and if we haven't done it

21 right, it may even be below it and we have

22 another problem.

23 So often these things are things that

24 I think that brother Worley was right on

25 target and right on the money that AASHTO

1 can be an active individual to support these
2 kinds of engineering efforts.

3 I know that I can halfway speak for
4 AREMA, although they are not here.

5 I think that, again, there's some
6 other experience out there in the private
7 crossing area. I point back to the efforts
8 that have been made in the public crossing
9 areas and suggesting that HWA certainly has
10 some very knowledgeable people that can
11 contribute. And as Paul said, Paul Worley
12 said earlier, and I was glad to hear him
13 talk about this, since he was there with me
14 in the technical working group, I think his
15 idea of convening some sort of technical
16 working group like the one that we had may
17 be an excellent idea, at least in getting
18 stakeholders in some kind of a conference
19 situation.

20 We've got very few stakeholders here

21 when you get right down to it. We've got
22 North Carolina DOT, and I love them dearly,
23 and I have been trying to wean myself from
24 North Carolina how long now, Paul? Since I
25 had you over there at the state fair?

1 MR. WORLEY: It's been a long time.

2 MR. BROWDER: For years, and I'm still

3 not out of the woods. And nothing against

4 North Carolina or West Virginia, I love them

5 dearly too, but I think we need to get the

6 rest of the group together to look at the

7 engineering, or have I said enough Grady? I

8 will shut up.

9 And I want the record to show that I'm

10 from the railroads, and I want to contribute

11 my part to avoid any further criticism from

12 the chairs. Thank you.

13 MR. COTHEN: It wasn't intended as

14 criticism. It was intended as

15 encouragement. We thank you for taking the

16 bait, I mean, stepping up and adding to the

17 discussion.

18 Thank you very much for that.

19 MS. CARROLL: Anybody else?

20 MR. WORLEY: I got one thing to add

21 before you get into a lot of engineering
22 inventory classifications. That's one thing
23 that we can look at, but I would ask that we
24 do consider the need to cut back based on
25 the data and to look at different kinds of

1 treatments, because you can in a vacuum or
2 based on a certain level of experience
3 recommend certain kinds of signage or
4 certain kinds of signals or certain kinds of
5 signs, but really you need some real world
6 tests out there to rely on DOT and to get
7 the data. We do a lot without gathering
8 data, and for something that's as big as
9 private crossings, something that's out
10 there before we start lifting and signing
11 standard, make sure we have some really good
12 data. We need to have it in there. Don't
13 study forever. Some places study forever,
14 but --

15 MS. CARROLL: Thank you Paul. I
16 actually had a couple of questions for you.
17 I know you are involved in AASHTO in the
18 SCORT committee, and one of my things was my
19 bedtime reading as of recent has been page
20 by page, line by line, word by word MUTCD

21 and AASHTO green book. Some of the things I
22 found were interesting, as I was not looking
23 for necessarily highway-rail grade
24 crossings, but other roadways that could be
25 classified as private roads, which may

1 intersect the railroads. I found a couple
2 of interesting citations in AASHTO, a whole
3 section on driveways. There is guidance in
4 AASHTO on how you sign and control access to
5 driveways. And my question to you, Paul,
6 and the other piece that I found was on
7 recreational roads. And I was wondering,
8 Paul, if you had any idea of how these came
9 about, and whether they would be applicable
10 to look at as some sort of way to bring
11 AASHTO on board with private grade
12 crossings?

13 MR. WORLEY: Well, I think we are on
14 board with the SCORTs. First of all, I
15 think AASHTO is on board, first of all,
16 through the standard committee on rail, and
17 a lot of the other safety issues we have got
18 going on, but I would ask as far as accurate
19 green booth goes, I would think the intent
20 there would be to address where it said

21 driveway or access roads, private
22 intersections of public highway, the
23 railroad is not a public railroad.
24 So you still have, you know, you do
25 have that traffic control device at the

1 public highway, and the public purpose
2 thereof is to protect the user of the public
3 highway for someone not having the stop sign
4 and pull right out.

5 So I can imagine that's probably where
6 those signs of standards came from years
7 ago. But that does give you the ability to
8 look at well, being that there's public
9 purpose in railroad crossings to railroads
10 in interstate commerce, that's something to
11 look at. But I think that's the reason the
12 agreement was made.

13 MS. CARROLL: But it does look at a
14 private intersection of a public roadway,
15 because there is guidance for private roads
16 over public access.

17 MR. WORLEY: Right, exactly.

18 MS. CARROLL: So my thought was that
19 since the door might be a little ajar, we
20 could look at those as a baseline to work

21 from, you know, off a driveway or
22 recreational, because the studies must have
23 been done if AASHTO was quoted in the green
24 book to say these are the kinds of things
25 you need to look at when you have access.

1 MR. WORLEY: The former access group

2 would be signed, that's much different. I

3 don't say the concept is bad. I'd say

4 that's not a real good comparison when you

5 start talking about access to a public road

6 with a highway rail crossing. And Bill has

7 the battle we went through with the signs,

8 stop signs and highway signs when you start

9 trying to use a highway standard or bring

10 those guys into it that way.

11 MS. CARROLL: We don't have anybody

12 here representing the National Committee on

13 Uniform Traffic Control Devices, do we?

14 MR. WORLEY: We're on the committee.

15 MR. BROWDER: Well, Paul and I are on

16 the committee. Dave Peterson at the Fort

17 Snelling meeting brought that up, and I told

18 the staff up here that I had called Rick

19 Campbell, who probably is the best and most

20 representative individual for the national

21 committee to discuss their approach and
22 perspective on the work that they are doing
23 in this area, and Brian Gilrad of Ron's
24 staff is also involved.

25 I suspect -- Ric committed to me that

1 he would come to a meeting, and I imagine,
2 since he is not here, that he would come to
3 the New Orleans meeting, that would be
4 closer for him out of Fort Worth.

5 Does that help any?

6 MS. CARROLL: Yeah, it helps a little
7 bit.

8 I was interested in a piece within the
9 MUTCD, the 2003 edition, that talks to low
10 volume roadways. And, again, I'm trying to
11 stretch a point, like I tried to do with the
12 driveways and the recreational roads. I
13 mean, if we had accurate ADTs on private
14 crossings and they fell below 408ATD, would
15 they then fall under a MUTCD guidance for
16 low volume roads whether they were public or
17 private?

18 MR. WORLEY: I don't think you could
19 do it.

20 MS. CARROLL: There is guidelines out

21 there.

22 MR. WORLEY: Right. These are low

23 volume roads where you put up gates and

24 locks.

25 MR. BROWDER: From AAR's perspective,

1 and speaking from my seat on the national
2 committee, I would suggest that there's so
3 many other parameters that were considered
4 in the establishments of low volume roads,
5 other than what we're looking at here, that
6 if that's something that you all choose to
7 do, I would just start from scratch and work
8 and develop what you would like to see as
9 your own standards and practices, rather
10 than pointing at what the MUTCD has done
11 which represents a real compromise of many,
12 many, many other different facets and the
13 establishments of that criteria. Just an
14 idea.

15 MS. CARROLL: Okay, thank you, Bill.

16 Well, I just had those two burning questions
17 I had to ask, since I had some
18 representation here.

19 MR. FIELD: My name is Jason Field

20 again, I'm with NCDOT's rail division. And

21 I think one of the issues we really need to
22 focus on is any treatment for any of the
23 these crossings needs to be based on
24 engineering judgment at the specific
25 crossing. The idea of looking at a blanket

1 policy with a set criteria for ADT, I think
2 is faulty. You have got issues of curvature
3 of the railroads, the road sight distance.
4 In North Carolina, we physically evaluate
5 every single crossing prior to determining
6 what kind of treatment we are going to apply
7 there, whether it be gates, medians,
8 barriers, elongated arms, in some cases side
9 panels.

10 One thing that's been an issue for me
11 is the broadband use of application of stop
12 signs. While stop signs seem like a good
13 idea at first glance, one of the issues that
14 may or may not be considered before those
15 are applied, as opposed to a yield sign, is
16 the idea that the designed vehicle is
17 required by law now to stop at a crossing,
18 and depending on the train speed, I think
19 there's a serious issue if that designed
20 vehicle, if it's an 18-wheeler loaded has to

21 put it in gear and try to clear the tracks
22 to get out of the dynamic envelope of the
23 train and is not able to.
24 We recently had an incident with our
25 Piedmont at a private crossing which charred

1 our train, it ripped the whole fiber glass
2 shell off the front of it and basically put
3 our train down. No serious injuries,
4 fortunately, but the idea of a blanket usage
5 of passive protection, I think, needs to
6 weigh on the yield side of things versus the
7 stop sign side of things, and if some sign
8 is applied, it needs to be based on sound
9 engineering evaluation on that specific
10 location.

11 MS. CARROLL: I think all of the
12 guidance that I read when it talks to rail
13 crossings, it says, and based on engineering
14 design team considerations. So I don't
15 think that's going to go away.

16 MR. FIELD: Another issue regarding
17 Bill's comments on the hump crossing
18 approach and highway's approach to the hump
19 crossings, we attempted to few years ago to
20 develop a program to address hump crossings

21 and public grade crossings. I developed a
22 nice little formula for kind of developing
23 an index number, so that we could approach
24 that, and we approached the Feds, as far as
25 funding or in terms to trying to fund

1 something like that, and we weren't able to
2 get support for that. So we ended up
3 putting it on the back shelf.

4 One of the issues you are going to
5 find on private crossings, generally private
6 crossings are going to follow the existing
7 geometry that was there. Whereas, public
8 crosses, when roads are being built, you
9 want the money to raise the approaches for
10 the grade. And railroads are trying to get
11 out of the water for private crossings. You
12 are basically going to follow that ballast
13 line.

14 The scariest crossings I closed was on
15 CS section of double A line in
16 Charlottesville. Where literally you went up
17 the ballast line of asphalt, crossed and
18 went down the other side and the crossing
19 was nine feet wide, if it was lucky. It was
20 not a good situation. And so the idea of

21 having some kind of standard developed for
22 widths and things is something else that
23 ought to be considered.

24 MS. CARROLL: Thank you, Jason.

25 I think we want to move, unless

1 anybody has any comments on -- yes, Arthur.

2 MR. PETTEWAY: If I could add
3 something. I like the idea when we talked
4 about, when we first talked about gathering
5 data important, but also when we are talking
6 about engineering standards and
7 specifications, we have to at some point
8 make a determination of whether or not a
9 crossing can be closed.

10 So let's not leave closing a crossing
11 out of the mix. That should be a part of
12 the evaluation and part of the engineering
13 that you do have to cross.

14 So just wanted to make that point also.

15 MS. CARROLL: Thank you. That's very
16 well taken.

17 MS. KLOEPPEL: I have been listening
18 to various comments, and I certainly believe
19 firmly in the value of engineering
20 evaluation before putting any particular

21 traffic control devices in place. But I
22 understand -- I was involved in the
23 technical work that was -- that put together
24 that guidance before. One of the
25 motivations behind that was an acceptance

1 that you are not necessarily going to get a
2 full engineering study. And so we were
3 trying to provide some baseline information
4 for people who might not be as technically
5 competent as people in the state level are.

6 And I was wondering what people felt about
7 the value of a similar effort on private
8 crossings. We did this for public
9 crossings. Would it be valuable to have a
10 group establish some baseline parameters?

11 MR. PETTEWAY: Yes.

12 MS. KLOEPPEL: Do you have, I guess
13 I'm trying to draw the words out here, some
14 opinions, or does your experience tell you
15 what some of the considerations are that
16 would make a private crossing different from
17 a public crossing, and can we use that to
18 fuel the conversation here?

19 MR. FIELD: Absolutely.

20 MS. KLOEPPEL: And this goes to

21 anybody, I'd like to hear what sorts of
22 organizations would be important to have if
23 we were going to discuss this more in depth.

24 MR. FIELD: Jason Fields, NCDOT. I
25 think as far as the things that we receive

1 in North Carolina, there's a lot of cases
2 where we have single vehicle width crossings
3 with very bad sight distance, plus it goes
4 across.

5 So obviously any group that deals with
6 bus traffic, and that kind of thing, they do
7 the best that they can, in addition to
8 somebody with industrial trucking
9 facilities. We've got a lot of cases,
10 especially around our metropolitan areas,
11 where you have got private crossings in
12 industry that sometimes are internal to plant
13 operations in addition to truck access
14 points. And, of course, in most cases where
15 you see that you have got a parallel road
16 next to the tracks, that makes gating
17 crossing very difficult and things of that
18 nature.

19 I think it's important to have
20 somebody from the highway side of things.

21 As a lot of cases, we're looking more
22 towards doing some signage in some of our
23 public crossings in rural with low ADTs that
24 are public crossings, in addition to the
25 rail division, obviously, or whatever state

1 agency looks after that kind of thing. And,
2 of course, the railroads, they have got a
3 stake in this as well.

4 I imagine one issue the railroad is
5 going to be wanting to look at as far as a
6 policy is what kind of protection for doing
7 that kind of treatment, and there's the
8 question of where the money comes from.

9 MR. WORLEY: Also, you talked earlier
10 about the American Planning Association.
11 Those types of planners are real important
12 when you start talking about private
13 crossings and development.

14 One thing about private crossings, you
15 get more into the railroad and maintenance
16 away, because you don't have the signals
17 that you have in public crossings. So you
18 really need to get some folks in there that
19 are involved more in track maintenance and
20 drainage maintenance. It's just a very

21 different animal with private crossings,
22 plus you don't have the road bed in some
23 cases, you don't have good drainage, you
24 don't have the good approaches that you have
25 in public crosses where you have a road

1 that's already municipal or state or county
2 maintained, those approaches you have got
3 railroad maintaining what's their only
4 operating right-of-way and then paths of
5 private driveways or concrete leading up to
6 it.

7 Another thing within AASHTO, you've
8 got the motor carrier group to think about
9 as well, because you may have some private
10 crossings that are in the important
11 facilities or industrial type things, and
12 motor carrier folks have a lot of good input
13 on those kinds of things as well. So.

14 MS. KLOEPPEL: Thank you. Sorry,
15 Any.

16 MS. CARROLL: That's okay. Just on
17 the motor carrier piece, I know there's
18 something currently going on, maybe Ron can
19 give us a little bit more information on
20 FFMCSA and some proposed rule making that

21 they have got going on with crossings.

22 MR. RIES: In response to, I believe

23 it's 1994 legislation, federal highway at

24 that time, which was responsible for

25 commercial motor vehicles, was directed to

1 issues statute of being a federal offense
2 for a motor vehicle to go over a crossing
3 unless it was known that the vehicle can go
4 completely clear of the tracks so that they
5 had proper storage of space. They actually
6 issued a rule a couple of years ago, three
7 years, it ended up getting pulled until they
8 are in the process now of starting that
9 rule, making public meeting in DC last week,
10 and the only member of the public that
11 showed up was our friend, Mr. Browder.
12 There were about 15 feds and Bill.

13 MR. BROWDER: And they made me speak
14 too, didn't they?

15 MR. RIES: Yes, they did. So that
16 issue of storage space is still very real,
17 and I think Bob's picture in the
18 presentation showed a very real problem. So
19 there will certainly be more coming from the
20 FMCSA in that area.

21 MS. CARROLL: My thought was there
22 that maybe FMCSA could be another partner in
23 the technical working group, as well as
24 AASHTO.
25 MR. RIES: And Federal Motor Carrier

1 Safety Administration work with FRA in
2 operation lifesaver, developed a trucker
3 safety advisory card that gives them
4 crossing safety information, and we're
5 putting up a quarter of a billion of them
6 and we have all but 10,000 have been called
7 for. So there's certainly an interest in
8 that agency in terms of safety. But they
9 are attempting to reach out.

10 MS. CARROLL: Anybody else have any
11 thoughts on other partners that could be
12 part of this technical working group to deal
13 with this issue that may bring to the table?

14 I don't know who at ITE we would
15 contact for the old list. I think there are
16 about 250 members of that technical working
17 group, from what I remember, in total. I
18 know James Cheeks has since departed from
19 ITE, and he was part of that keeper of the
20 historical record. I guess that's an action

21 item for us to look into.

22 MR. RIES: And from a technical

23 working group, when we finished the work, it

24 was one of their hopes that they could

25 reconvene in five years and review and try

1 to update that document. So that might be
2 an opportunity to expand the charter to look
3 at private crossings with those folks.

4 MS. CARROLL: Who would be in charge
5 of that?

6 MR. RIES: Federal railroads are the
7 ones that sponsored. I don't remember if
8 HWA contributed to the funding of the
9 contract with ITE.

10 MR. BROWDER: You mean, October of
11 2002?

12 MR. RIES: Pardon?

13 MR. BROWDER: The October 2002 group?

14 MR. RIES: The technical working group
15 yes, the 2002 group. So it's pretty much a
16 federal highway.

17 MR. BROWDER: I sure got the
18 impression that they were in it.

19 MR. WORLEY: It's on their web site.

20 MR. RIES: It was a joint effort so.

21 MR. BROWDER: What happened, if I
22 remember correctly, Paul, is that it started
23 with a meeting at the Texas national
24 conference, and it was a meeting of anybody
25 who wanted to come.

1 So you got a whole litany of staples

2 who came. And then I remember the second

3 meeting was out in San Diego. I remember

4 you, Andrew, standing outside worried about

5 the transit coming to Raleigh. And we had a

6 different set of stakeholders.

7 So we had the original stakeholders.

8 So that's where you get the 250.

9 MS. CARROLL: Well, then we had Myrtle

10 Beach.

11 MR. BROWDER: Myrtle Beach, and, of

12 course, that was a South Carolina hosted

13 southern region conference, and so you had

14 the folks that were there for that

15 conference that came too.

16 So, you know, I'll bet that Shelly

17 Rau, who took James Cheeks' place over

18 there, was responsible, would have an idea

19 of some of the things, at least some of the

20 litany of material that went on in terms of

21 the people. If not, I've got Cheeks'
22 address, and they still use him as a
23 consultant for their grade crossing
24 committee. We will see him in January.
25 MS. CARROLL: Thank you, Bill.

1 Moving on to our engineering design,

2 we wanted to look at things like, well, we

3 talked a little bit about the home crossing

4 or the vertical clearance, horizontal

5 clearance. A lot of these types of

6 criteria, even though they are applicable to

7 public roads, are found in some of these

8 guidance documents for crossings. But what

9 we'd like to do is go through and discuss

10 engineering designs.

11 We could start with categories of

12 crossings that you want to try and identify,

13 which may have different characteristics

14 from each other, or we can start with just a

15 list of what you would look for, or how you

16 would determine the types of traffic control

17 devices, sight distances for private

18 crossings versus public.

19 So you have the list of what was

20 developed in Minnesota in your packet there

21 as far as categories of other types of
22 crossings. Does anybody have any additions
23 to this that we could add? Are there groups
24 that we could consider similar, for example,
25 the term farm is used a lot, but is the true

1 term agricultural crossings? Because you
2 may have farms or orchards or other things
3 where you are still going to have heavy
4 machinery.

5 So I just wanted to get your opinion
6 on this list, add, subtract, contents and
7 then we can move on to engineering design.

8 MR. CRUZ: Ric Cruz, NCDOT. You said
9 other than commercial, but you don't mention
10 commercial at all.

11 MS. CARROLL: Okay. This is
12 highlights, summaries of notes that we took
13 from our Minnesota meeting. This is just a
14 category that we mentioned similar to, you
15 know, government, like military stuff. It
16 was just a category. We didn't eliminate
17 anything. We didn't really define these
18 categories. We just did some brainstorming.

19 MR. CRUZ: One of the standard fields
20 that we do collect is commercial versus

21 industrial and residential, recreational,
22 institutional. And I'm not sure what is
23 meant by other commercial.

24 And as far as the government public
25 facilities, it talks about military access

1 and planning. I'm not sure access I
2 understand, but planning is just railroad
3 crossing at the base.

4 MS. CARROLL: Yes, and that would be
5 the same for the railroads, internal
6 railroads facilities. It would be crossings
7 within their --

8 MR. CRUZ: If you went military, you
9 have public access roads within the military
10 base itself, versus you have military
11 purpose roads, where you have tanks and
12 other heavy equipment. And do you want to
13 further identify those or not?

14 MR. FIELD: Equipment versus
15 nonequipment?

16 MR. CRUZ: Right. I mean, that's
17 something there's knowledge about that.

18 MR. GILBERT: Even commercial might be
19 a bullet point under industrial.

20 MS. CARROLL: No, I think it was more

21 who was it? Was it Iowa? Iowa mentioned
22 the levy authority having an access road to
23 their levies, and it wasn't commercial, it
24 wasn't recreational. I think it might have
25 been the levies that -- there were other

1 private roads out there that are held under
2 the authority of certain institutions, but
3 they are not necessarily public authorities.

4 So I think that's what that levy, the
5 levy might be the answer to that one.

6 MR. WORLEY: You have got crossings at
7 access. There are DOT crossings that are
8 not both crossings, in other words, the
9 irrigation area, those kind of things.

10 MR. FIELD: Basically other category.

11 MS. CARROLL: Or resource management.
12 I don't know what the term would be.
13 Resource management crossings or something
14 of that nature.

15 MR. GILBERT: Why would you not have
16 commercial and have something under it? I
17 mean, you are talking about where does
18 Wal-Mart fit in here? You know, Wal-Mart
19 would be a commercial, it's not going to be
20 an industry.

21 MS. CARROLL: I've added it to the
22 list.
23 MR. FIELD: There ought to be
24 something included that kind of shows the
25 difference between a commercial property,

1 such as a Wal-Mart, which is a huge traffic
2 generator, versus, you know, a TV repair
3 shop that's much less inclined to generate
4 as much traffic. It's a private crossing.
5 There's few locations in North Carolina
6 where there's actually a single allocated
7 crossing going into a parking lot, a mall,
8 for example, and you label that as
9 commercial, as well as, you know, much less
10 lower density of crossing area. That might
11 be something you want to differentiate.

12 MS. CARROLL: So you think ADT would
13 be a criteria within commercial that you
14 want to address?

15 MR. FIELD: I think it might be
16 worthwhile to have that added. Actually, if
17 you have an inventory sheet using the
18 current state inventory sheet, ADT is going
19 to be one of those items anyway.

20 MR. WORLEY: Traffic too, I would

21 imagine, trucks versus cars.

22 MR. FIELD: Percentage of trucks is

23 also currently on there.

24 MR. CRUZ: The problem with that is

25 that's not included within a private

1 property.

2 MS. CARROLL: Inventory.

3 MR. WORLEY: You still have tank farms
4 that have access of private crossing.

5 MR. FIELD: We need to incorporate a
6 lot of the baseline data on current public
7 inventory sheets over to the private
8 inventory sheets, it sounds like, better
9 characteristics employed, used in crossing.

10 MS. CARROLL: I guess when that topic
11 was brought up at our meeting in Minnesota,
12 Minnesota was quite determined to say they
13 don't have state DOT staff available to keep
14 up to date with their public grade
15 crossings. And you could throw all the
16 money you want at us, and we still won't
17 have the staff to get to the private
18 crossings. And is it their jurisdiction to
19 be able to do that anyway? So we come back
20 to a catch 22, how do we collect the data?

21 MR. GILBERT: You've got crossings in
22 this commercial thing. I mean, I think in
23 west end, you've got commercial and a huge
24 residential area, real estate, accessed by a
25 private crossing, which is truly multi,

1 multi, you know, faceted. I mean, it's

2 landowners, it's everything.

3 MR. FIELD: All using a private

4 crossing.

5 MR. GILBERT: All using one private

6 crossing.

7 MR. CRUZ: One other thing, right now,

8 the current -- the way the data is selected

9 under private crossings, there's only, and

10 this is what we're talking about, it says

11 categories private and public properties. I

12 would think all these here would fall under

13 private properties is what you are trying to

14 say. Right now, there's only three, and

15 that's FRA and state and most states are the

16 same thing.

17 So just collecting the data and

18 distributing the data is going to be a

19 measured change.

20 MS. CARROLL: Based on the comment you

21 just made Ric, is it, I mean, would it be a
22 good approach to look at functional
23 classifications of private crossings similar
24 to what they do with roadways, where they
25 look at level of service that the road

1 provides, type of vehicle that the roadway
2 carries, and then from there once we build
3 sort of a functional classification and
4 types of users and frequency of user, you
5 can then try to provide some baseline
6 standards for traffic control devices or
7 geometric design of those crossings or sight
8 distance needs or requirements of those
9 types of crossings?

10 MR. CRUZ: As a basis, you can start
11 with just using the standard FRA required
12 fields, extend those to the private
13 crossings, and then everything that you have
14 already done, Grady included at that point
15 could be used, and you can alter it, fine
16 tune it in all those areas you are talking
17 about. But all that information already
18 exists field wise. All the databases
19 already are developed, and all the models
20 represented have that information. So all

21 you are doing is extending that to private
22 property. That would be the simplest way to
23 do that if you gather that data.

24 MS. CARROLL: Who do you feel would be
25 the most appropriate person to gather that

1 data?

2 MR. CRUZ: Well, the people who are
3 most knowledgeable in doing it would be the
4 states. The states are doing it even more
5 so probably, than, I think, the railroads.
6 You would have to have some ways of either
7 augmenting their resources financially or
8 personnel wise, either consultants or
9 in-house. Those would be the people who
10 understand better than anybody who deals
11 with it, more quickly be able to give that
12 data to the end users, bring that point so
13 that we can actually use it in all the
14 different type of modeling.

15 MS. CARROLL: Thank you, Ric.
16 Leslie, you have a comment?

17 MS. SPURLOCK: Is there a potential
18 that you could go to like a college and get
19 their senior students in engineering to do
20 that kind of project?

21 MR. CRUZ: Part of the problem I've
22 had, we've actually had consultants and used
23 interns in our program. Also, it takes
24 probably six months to a year to train these
25 people to be able to actually collect this

1 data in uniform factually, so we are looking
2 at the same thing, and extend that
3 information back.

4 MR. WORLEY: And it's dangerous.

5 MR. CRUZ: That's true, it is
6 dangerous.

7 MR. WORLEY: One of the things we talk
8 about private crossings, remember sometimes
9 we think about private crossings as those
10 that we see from the road as a driveway.

11 But when we did some of our initial PCSI
12 surveys, and Bob can attest to this too,
13 some of those private crossings you have to
14 go through a man's field, go behind their
15 tobacco barn, go around the pond, and you
16 get in the middle of nowhere, and there's a
17 crossing, and then it goes back to that
18 field. Or you may have one that goes back
19 behind the hump yard. There's a trail that
20 goes down behind the hump yard and it goes

21 in or whatever. But you are getting into
22 some private property, and that's a
23 consideration when you start talking about
24 sending state employees or any kind of
25 employees on private property, you have got

1 a lot of hazards to get to the crossing, if
2 it's not readily accessible. And there's a
3 lot that are like that.

4 And then the other thing we talked
5 about is protecting the crossing in
6 geometrics.

7 One of the things we looked at with
8 private crossing safety initiative is when
9 you treated crossings, you just treat the
10 crossing, you know, pretty much there, as is
11 with signs and devices. Because when you
12 start looking at the geometrics, and you
13 start looking at the approaches, in some
14 cases you are going to get off the railroad
15 right away back on private property. And if
16 you are doing something with federal funds
17 or state funds, you are going to have to
18 have some right-of-way if you are going to
19 have public dedication to deal with private
20 property. Those things can be overcome but

21 got to be considered.

22 MR. CRUZ: Adding to what Paul is
23 saying, and Jason brought this up earlier
24 when we were talking about it, actually, the
25 best way to collect data on private property

1 is get a high-rail vehicle on the rail line
2 itself, because then that's the only way you
3 can be sure that you catch every single
4 private property. Some private properties,
5 by trying to go to them, you can't get to
6 them.

7 MR. WORLEY: You still don't know
8 where to go on the high rail. You don't
9 necessarily know where it is.

10 MR. CRUZ: That's true. But using an
11 aerial for anything like that might be
12 useful.

13 MR. FIELD: To get a general idea and
14 application too. You can tell generally a
15 hunting trail from a boat ramp crossing or
16 something like that.

17 MR. CRUZ: Going on high rails, you
18 pick up another problem with the railroads
19 need time to do that. In our experience,
20 it's been very difficult to try to organize

21 the logistics on that.

22 So it's very hard to do.

23 MS. SPURLOCK: You had mentioned

24 earlier about Transport Canada using the

25 description restricted and unrestricted,

1 because maybe that's something we should
2 look at too, because restricted would be
3 somebody's really private property. He
4 doesn't want you in their backyard when the
5 train goes through a creek or something;
6 don't go back there at all for your safety
7 or anything else. And then there's the
8 unrestricted, which is going into industrial
9 yard. You want to go out and pick out some
10 cement yourself. You want to go to K-Mart,
11 Wal-Mart something like that. Because
12 that's like if I want to go in and buy a
13 tree from a nursery, it might be a private
14 crossing, but it's not unrestricted to me.

15 So maybe that's another way you look
16 at how you pass judgment on what kind of
17 warnings should be aware, because the
18 gentleman's farm crossing that nobody gets
19 to but twice a year needs, I would think, a
20 different kind of warning than somebody who

21 is going into a nursery to pick up plants in

22 the spring or the fall.

23 MS. CARROLL: That begs a question for

24 me is how do you determine how private or

25 how public a private crossing is?

1 MR. WORLEY: That's what I said. You

2 can't, because you get into situations where

3 people have a driveway. It's a nice wide

4 driveway. It says don't use this driveway

5 unless you have business with us. Don't be

6 turning around. I see that as restricted.

7 That's when you get into the United States,

8 the private property rights issues and farm

9 bureau and all of that. That's one thing

10 when you start talking about people at the

11 table you are dealing with, you might as

12 well ask the farm bureau to be here too,

13 because the property rights mentality, it's

14 a little bit different in Canada versus the

15 United States.

16
17 MR. SHANK: Canada may be

18 unrestricted, would be the equivalent of say

19 municipally dedicated versus restricted any

20 other too.

21 MS. CARROLL: I haven't read -- the
22 law hasn't been passed, so it's not open for
23 public viewing. So I can't give you a
24 definition of what it means. But from
25 Leslie's comment, how would you deem a

1 private crossing that has public use? Is it
2 more than one user? Is it more than ten
3 users?

4 MS. SPURLOCK: Make it so that the
5 owner is not shooting at them.

6 MR. WORLEY: Maybe you just choose.

7 MS. SPURLOCK: Obviously, some owners
8 if you are going in to buy parts, what do
9 they call it, like an auto graveyard or
10 something, because you are looking for a hub
11 cap, they know the public is coming in, so
12 they are unrestricted. Or like I said, a
13 nursery or a Wal-Mart or whatever it might
14 be. A concrete company may not want you
15 there at all. They are restricted except
16 for their trucks that have permission to go
17 over. Maybe you need to find out what their
18 policy is of the company's, and just assume
19 that somebody who has got it on their farm
20 property, that's going to be restricted.

21 Why even ask them? They don't want you in
22 their backyard.

23 MR. FIELD: I think maybe the way to
24 look at that is physically restricted. You
25 know, if it's gated versus not gated,

1 because, you know, there are people crossing
2 my property all the time walking, and, you
3 know, but if I put a fence up, they would
4 have to climb a fence. I think from a legal
5 standpoint, it's gated.

6 I know in a lot of cases we assess
7 private crosses in the public right-of-ways
8 based on the fact there's a gate on this
9 side of the tracks. If there's a gate on
10 this side of the tracks, it's pretty clear
11 the general public is not anticipated or
12 expected to be able to go through there,
13 unless they have permission from the
14 property owner to go through their gate.

15 And, you know, I think maybe it's something
16 to look at, just whether it's gated or not
17 as far as whether it's restrictive or not.

18 MR. GILBERT: You know, that
19 restricted and unrestricted about three
20 weeks ago -- this is Danny -- I contacted

21 Bill Bocheck and asked him what his
22 definition of restricted and unrestricted
23 crossing was, and whether it was private,
24 public or whatever. I didn't get a good
25 reply, because I don't think they know, and

1 I saved the e-mails. I mean, have you
2 talked to him about what they mean by
3 restricted and unrestricted, because they
4 couldn't explain it?

5 MS. CARROLL: It was CP rail that
6 brought it up at the Minnesota meeting.
7 They mentioned these new regulations that
8 are about to come into place, and they
9 mentioned the fact that they weren't public
10 and private anymore, it was restricted and
11 unrestricted.

12 MR. GILBERT: I will send you the
13 e-mails then.

14 MS. CARROLL: Thanks, Danny.

15 MS. SPURLOCK: For that matter, do we
16 have to wait on Canada? Can we do our own?

17 MS. CARROLL: Yes, we can do our own.

18 MR. FIELD: We're not in Canada, so.

19 MS. SPURLOCK: There you go.

20 MS. CARROLL: It's good to look at

21 what other folks are doing as well and what
22 the regulations are.

23 MS. SPURLOCK: But our definition of
24 that could be different, and that's okay.

25 MS. CARROLL: Would you have a

1 definition of a public crossing be the same
2 that it is now, and then subdivide a private
3 crossing by restricted and unrestricted, and
4 then would you provide guidance for
5 unrestricted private crossings?

6 MR. FIELD: I would think the
7 applications are not necessarily based on
8 restricted or unrestricted, because if you
9 go with the gated issue on that, that's
10 going to really affect the ADT issue, which
11 is based on the engineering judgment to
12 apply the crossing. If it's farm crossing,
13 twice a year you are not going to sit by
14 gated swing gate, you know, or something
15 like that. And perhaps a sign if you have
16 got an unrestricted crossing, say to a boat
17 ramp, we have some of those, then you are
18 going to look at that differently just
19 because it's a much more used crossing.

20 MS. CARROLL: So you are talking about

21 a physically locked gate?

22 MR. FIELD: The existence of a

23 lockable gate.

24 MS. CARROLL: The existence of a

25 lockable gate.

1 MR. FIELD: We can't get into the
2 business trying to police these gates that
3 are required to be locked; however, the
4 railroad is in a position, based on the fact
5 they are on the corridor, to perhaps prevent
6 the private crossing as a continual unlocked
7 gate that's supposed to be locked.

8 MS. CARROLL: Okay. Any other
9 categories? I added commercial to this.

10 Any other types of crossings we want to --

11 MR. RIES: I was just going to go back
12 to your question about, you know, should we
13 change the definition of public crossing?

14 And, you know, my initial reaction is that
15 it might not be good public crossing from
16 federal funding perspective has a very
17 statutory requirement. So I don't think
18 changing what's a private crossing now and
19 making it "public" would be very confusing
20 to start allocating funds. That's not to

21 say, you know, the decision is made that
22 that's a good use of public funds through
23 the use of private crossings, you know,
24 that's a subject that probably could be
25 explored. But I think you need to keep the

1 basic definition of what a public and
2 private crossing is, and then make
3 subcategories within private crossings.

4 MS. CARROLL: Okay. My question would
5 then be: How many people or frequency of
6 vehicles distinguishes a public from a
7 private crossing, Ron? Or is there any?

8 MR. RIES: The number of vehicles does
9 not have anything to do with distinguishing
10 whether it's public or private crossing.
11 It's who holds the roadways, whether it's a
12 public authority owns the roadway on both
13 sides of the crossing.

14 So there are private crossings that
15 have much higher traffic than a public
16 crossing, the ones that go into the Wal-Mart
17 or big industry. That's why I think you
18 keep that separate.

19 Now, the question is when do you get
20 into a private crossing that's open to the

21 public access? And, you know, there's talk,
22 maybe it's when there's a gate. I don't
23 know. If I'm a property owner, I have a
24 crossing that goes into my residence, would
25 I want to have a gate in front of it? And

1 considering also then the exposure that how
2 the person if you have to be on both sides
3 of your right-of-way, you are crossing the
4 track six times either on foot or on --

5 MS. CARROLL: To go and shut the
6 gates, it seems like is there an open
7 invitation to the general public to use it
8 might be a category.

9 So that might fit in with the cement
10 trucks. You don't expect the general public
11 to be invited into that, my private
12 residence. I don't expect that, but I am
13 going to have my invitees, I am going to be
14 having some other people that service my
15 house, that type of thing.

16 So that might be another way of
17 looking at it. Do you expect John Q public
18 to come in? So the TV repair shop, since
19 you would be expecting people to come in,
20 drop off their TVs, would be open to public

21 use. Certainly it's not comparable to what
22 you have with the Wal-Mart. So it's
23 probably somewhere you need to make
24 decisions, or you have different categories
25 open to public access type of things.

1 MR. WORLEY: Let's just start with

2 closing them all.

3 MS. CARROLL: Arthur mentioned that.

4 Let's just start with closing them all.

5 What I'd like to do now is move into

6 the engineering design piece of the

7 discussion and look for suggestions as to

8 what would be our minimum kind of

9 engineering design for private crossings,

10 and we can work through, you know, sight

11 distance, we can work through geometric

12 design, we can work through sign, signals,

13 gates, and things like that and see where

14 you think we need to go in this area,

15 because there's no uniformity right now, as

16 you saw from some of the pictures, some

17 people are using stop signs, some people are

18 using yield signs, high-speed rail crossings

19 have their own sign, and there are gates out

20 there. There's all sorts of things.

21 So I'd like to start the discussion
22 with if we had money, and if we had
23 resources to use the money, and we've
24 collected all the data that we need, where
25 would we go? What would be a minimum

1 traffic control device? How would you
2 control access on private crossings? What
3 would be the minimum? Would it be, Jason,
4 you mentioned a yield sign versus a stop
5 sign. Is there a consensus that we can get
6 to for this kind of thing?

7 MR. WORLEY: I like the southern sign.

8 MR. SCHWARTZ: Stuart Schwartz,
9 S-T-U-A-R-T, S-C-H-W-A-R-T-Z. You might
10 have a hard time getting consensus, in view
11 of the fact that I think three upper class
12 ones now have stop signs that are all
13 private crossings, at least one state,
14 that's California, requires them. There's
15 not necessarily uniformity in terms of the
16 signs themselves, although Norfolk
17 Southern's sign is very similar to BSF and
18 UP signs. So that you got at least one
19 state, and perhaps there are more, I'm not
20 aware of any, but it's conceivable that

21 there are other states as well as that also

22 require stop signs.

23 So you may have some difficulty in

24 establishing any kind of consensus that's an

25 appropriate warning device, if you want to

1 call it that, the question whether or not it
2 requires material crossings. Simply as a
3 basic warning sign, you may have some
4 difficulty with that.

5 MS. CARROLL: Do you have an
6 understanding as to why those three class
7 ones were stop signs based on some of the
8 discussion earlier about heavy and long
9 vehicles entering industrial sites that may
10 need longer clearance types?

11 MR. SCHWARTZ: At the very least, if
12 you require a vehicle to stop at a private
13 crossing, you are giving him the opportunity
14 to see whether a train is approaching. And
15 I don't know precisely what phrase to use
16 when you are stopped at a point when you
17 could see in both directions and you can see
18 whether or not a train is coming, that gives
19 the driver an opportunity to avoid going
20 across the crossing when the train is

21 approaching more so if there's a yield sign
22 and the car was moving toward the crossing.

23 I can't speak for any other railroads
24 that have those, and given the fact that
25 California has established that as their

1 criteria, there may be some support. I
2 understand the highway organizations,
3 generally speaking, are not in favor of
4 using stop signs in broad scale.

5 MR. BROWDER: I have a hard time
6 starting this discussion with the issue of
7 if we had the money. I think the root part
8 of the analysis is what is the safety issue,
9 and addressing it from the perspective of
10 what needs to be done to do the maximum for
11 safety at private crossings, and we can
12 certainly, I'm not saying money isn't an
13 issue for everybody, but that's where our
14 focus would be.

15 Now, I have a follow-up comment, which
16 you kind of got him started on, old Stu, and
17 I would make the comment that from a safety
18 perspective, there is no difference in terms
19 of sight distance for the public versus
20 private crossing at passive crossings. And

21 that it is very well spelled out by FHWA and
22 reiterate it in that October 2002 report for
23 sight distance. And I see no reason why
24 anyone should vary from that perspective and
25 if they are going to put out any kind of

1 standards or practices for private
2 crossings.

3 MS. CARROLL: Thank you, Bill. I'm
4 going to go up to the board for a minute.

5 I'm trying to think of how we can
6 organize this based on public crossings.

7 The first thing that we do is we close
8 them, correct? That's the first approach to
9 take for safety sake?

10 MR. GILBERT: I'll second that.

11 MS. CARROLL: Thank you.

12 What would it take and what's the
13 difference between closing a public crossing
14 and closing a private crossing?

15 MR. FIELD: Requiring the right-of-way
16 to reroute the driveways, because if you
17 cannot take along the railroad's
18 right-of-way, you are taking it across.

19 MR. WORLEY: You can negotiate for
20 private driveway, and the cost is what you

21 get them as a settlement. They have 90 days

22 to find another way.

23 MR. FIELDS: That's the difference

24 between private and public though.

25 MS. KLOEPPEL: Don't you have some

1 issues about that, you close a public road
2 you have to worry about providing access?

3 MR. FIELDS: There's a documented way
4 to provide a right-of-way with public versus
5 a private driveway, unless the state agency
6 or municipal agency is going to maintain the
7 roadway.

8 MR. WORLEY: We don't build roads for
9 that purpose.

10 MS. CARROLL: What are some of the
11 other issues that you found in your
12 experiences that are public versus private
13 to close crossings?

14 MR. WHITEMORE: Shane Whitemore with
15 CSX. When you look at private road crossing
16 closure versus public, it becomes public
17 issue, and it turns to popularized issues
18 that we talked about in Minnesota. It's not
19 the state agent, I mean as Jason touched on,
20 the state agency can come in and condemn and

21 make a public road for altering access.

22 Those options aren't available between

23 property rights issues between landowners.

24 That's what we are, a landowner. The

25 railroad right-of-way is owned, its title is

1 varied. It goes anywhere from fee simple to
2 a straight license to operate through the
3 property.

4 So when you look at property owners,
5 it's just like Grady and I are neighbors,
6 and I want to cross his property to get to
7 Ron's place, right, Grady says go ahead,
8 right. So at that point, you know, that's
9 how I get through there. If he wants to
10 close it, he says no, I'm not going to close
11 it. You granted me the right to get to
12 Ron's house.

13 So the state can come in and say we're
14 closing it, right, we voted, you've elected
15 us, so, you know, the city counsel has come
16 in and we're closing Oak Street, we're going
17 to put a cul-de-sac here, and this is where
18 you go. The property rights issue, the
19 owner says I'm not closing for anything.
20 This is mine. I've got a right to cross

21 here.

22 So when you look at that, it becomes

23 harder to close them. You have to give them

24 money. You have to compensate in a

25 different way. You don't have the force of

1 law to say we're going to take it, so you
2 got to come in and try to negotiate the
3 closure and negotiate getting rid of that
4 right. Norfolk Southern and other railroads
5 spent money to do that, and, I mean, we all
6 go out and do it. I don't want to speak for
7 Norfolk Southern. That's the fundamental
8 difference I see between a public and
9 private closure. I know it's not
10 engineering. I will wait to San Francisco
11 to start talking. We are talking about
12 rights issues.

13 MS. CARROLL: That's okay. We will
14 say CSX said.

15 MR. PETTEWAY: One of the things he
16 did mention was legislation. From a state's
17 perspective, we have laws that allow us to
18 close crossings. On private crossings, we
19 don't have that. So we don't have that
20 power.

21 MS. CARROLL: You need some sort of
22 legislative support to be able to do that.
23 Any other thoughts on closures?
24 All right, so we have a private
25 crossing. We can't close, but here it is.

1 It doesn't have any signs or signals on it.

2 Is that -- should that be allowable?

3 MR. WORLEY: If they don't use it
4 much, one option may be gates and locks.

5 MS. CARROLL: So you want to put that
6 as a possible access control?

7 MR. WORLEY: It's what we consider,
8 one side.

9 MS. KLOEPPEL: That's if it's not used
10 much.

11 MR. WORLEY: It's farm, seasonal,
12 property for storage.

13 MS. CARROLL: Anybody else? We have a
14 private crossing. We can't close. What
15 would you like to see up there?

16 MR. FIELD: You start with a sign
17 package. If there's something that you
18 don't have the ability to investigate across
19 the board in some states, like you were
20 saying earlier, I don't think stop sign was

21 the way to go, although I thought I made
22 that point.

23 MS. CARROLL: Three class ones use
24 stop signs. You mentioned that you would
25 like to see yield signs?

1 MR. FIELD: In North Carolina, that's

2 what we start with. The only way we put up

3 a stop sign at a crossing is with an

4 engineering violation site list. If it is

5 determined by our division of traffic that

6 it's not an appropriate use of the site

7 issue, then we would go with a yield sign

8 packet similar to what Norfolk Southern has

9 been using, the low sign with the crossbucks

10 and what not.

11 MR. COTHEN: Can I interject a thought

12 or two on this? And I'm going to count on

13 Mr. Ries, who was on the technical working

14 group and others to bail me out when I

15 overstep.

16 In that report on page 14, the group

17 reported the Department of the

18 Transportation's position, the Federal

19 Highway Railroad Administration's position

20 expressed in a memorandum that was widely

21 disseminated back in, oh, I don't know, this

22 was actually March.

23 MR. BROWDER: March of '96.

24 MR. COTHEN: I think earlier. And

25 what had happened was that we were getting

1 pressure from the transportation safety

2 board on stop signs.

3 We also had on staff a fellow named

4 Bruce George, who favored the use of stop

5 signs at highway rail crossings. And we

6 said -- we had conversation with Federal

7 Highway Administration and tried to drive

8 home the utility of a stop sign, and, of

9 course, there are a variety of

10 considerations that need to come into play.

11 But one of the questions that Anya was

12 trying to ask is: Is there a difference in

13 terms of the considerations that might apply

14 with respect to the selection of default

15 signage?

16 The considerations that were --

17 federal highway, federal rail suggested be

18 applied, this is in the public crossing

19 context, was that local and state police and

20 judicial officials commit to a program of

21 enforcement, no less vigorous than would
22 apply on a highway intersection equipped
23 with stop signs. That's a point that's got
24 a double-edged sword. It might cut either
25 way. Clearly, I have a program of

1 enforcement by public authorities of a stop
2 sign at a highway rail crossing. However,
3 it would establish a standard of care for
4 the user, and to the extent the user is also
5 made aware that it's private property, that
6 may establish some degree of responsibility
7 on the part of the user of the crossing.

8 The second was installation of a stop
9 sign would not occasion a more dangerous
10 situation. Taking into consideration both
11 the likelihood and severity of highway rail
12 collisions and other highway traffic risks
13 than would exist with the yield sign.

14 And here, in my memory at least, what
15 I was concerned was rear end collisions that
16 can occur in a traffic stream. You place a
17 stop sign, perhaps it's light rail traffic
18 on the line, and people don't expect a
19 train. And one out of three motorists
20 decides to actually observe the stop sign,

21 and now we have proliferation of rear end
22 collisions.

23 One can argue that that's applicable
24 where you have commercial and industrial
25 use, particularly in mixed population. One

1 can argue that that consideration is
2 inapplicable for likely used highway rail
3 crossings.

4 There were then a number of
5 considerations or conditions that were
6 called out as indicating the use of a stop
7 sign as being appropriate, higher train
8 speeds, highway traffic mix, includes buses,
9 hazardous materials, carriers or other large
10 equipment, quite a few trains, passenger
11 trains and so forth, including other
12 geometry issues at the crossing. That might
13 challenge the motorist in terms of picking
14 out the train on approach.

15 Weighing against the highway is, other
16 than secondary in character, recommended
17 maximum of 400ADT in rural areas and 1500 in
18 urban areas.

19 So one can argue to the extent that
20 private crossings, ADTs are lower, that

21 maybe a stop sign would be less

22 objectionable.

23 The roadway's deepest ending grade to

24 or through the crossing, sight distance in

25 both directions is unrestricted in relation

1 to maximum closing speed and heavy vehicles
2 use the crossing. Theirs may be more
3 apropos of the reference of the difficulty
4 of some heavy vehicles crossing but would
5 argue against the stop sign.

6 Relatively contemporaneous with this
7 document being published in the same general
8 stream of discussion that was going on at
9 FRA, we did generate closed private crossing
10 guidelines. We noted that the states that
11 had at that time acted to require specific
12 signage for private crossings that opted for
13 crossbuck and stop sign, and we suggested
14 for discussion that that would be default
15 signage.

16 Clearly, you know, there are
17 circumstances where that doesn't work,
18 shouldn't be applied. Clearly if you had
19 the ability to do all the things you do on a
20 public roadway it's probably not very smart

21 to start with mandatory yield and then
22 option of stop sign. Don't get too many
23 public traffic engineers out to these public
24 crossings. It's one of our issues, so we're
25 talking about a fairly complex calculus.

1 I just throw that in to further

2 confuse anyone who isn't already.

3 MR. GILBERT: Typically, if you've got

4 a private crossing, you've got a much lower

5 automobile speed approach speed than you are

6 at a public crossing, plus you are going to

7 have, you know, probably surface treated or

8 gravel treated approaches. So you are not

9 going to be able to operate at 30 or

10 40 miles an hour going across there. So I

11 don't think you are going to have some of

12 those issues as you would have at a public

13 crossing stop sign.

14 MS. CARROLL: Thanks, Grady. That was

15 really informative, because I had forgotten

16 all that stuff.

17 MR. FIELDS: Grady, I agree with you.

18 MR. RIES: It might be useful if the

19 railroads that do have a standard signage

20 package, that they require or like to have

21 posted at their private crossings, if we
22 could get a template of what the standard
23 package is, what they look like so we can
24 just compare with what the different
25 railroads use.

1 MS. CARROLL: Anybody that has a
2 standard suite of engineering designs for
3 private crossings, if we could ask you to
4 entertain us with whatever your views of the
5 criteria, that would be very, very helpful
6 in the process.

7 MR. RIES: Also, I think Oregon has a
8 standard crossing sign package that they
9 require in addition to California.

10 MS. CARROLL: I think California's
11 just became binding, didn't it? Didn't they
12 just pass legislation that included public
13 as well as private?

14 MR. RIES: I'm not sure.

15 MS. CARROLL: Are there any special
16 signs that anybody uses out there from this
17 regional group? You mentioned the look both
18 ways sign. I mean, does anybody say, you
19 know, this is a private crossing, you know,
20 you are not supposed to be here? Are there

21 signs that limit or supposed to restrict
22 public access? No public access? Do you
23 use that standard sign at all on private
24 crossings?
25 MR. BROWDER: There's no standard,

1 that's the point.

2 MS. CARROLL: Not for private
3 crossings, but there are other standard
4 signs. I'm saying did people use other
5 standard signs?

6 MR. BROWDER: Yeah, but not that say
7 private crossing.

8 MS. CARROLL: No, but might say no
9 public access or restrictive use?

10 MR. BROWDER: I don't know. Where
11 would that be?

12 MS. CARROLL: I don't know. I'm just
13 asking the question.

14 MR. BROWDER: No, you are asking if
15 there are signs. I'm saying there aren't.
16 You can take the ones that are used in the
17 MUTCD that may be applicable to private
18 crossings, but there are no standards and
19 practices for private crossing signs.

20 MS. CARROLL: That's correct. There

21 are no standards or practices, but does
22 anybody use an MUTCD sign as part of their
23 operating practice? A state or a railroad
24 may use the look both ways sign or the yield
25 sign.

1 MR. FIELD: We do have a location
2 where we have a traffic signal, that's not
3 prohibited. One of the legs is on a private
4 road. We have got a sign there indicating
5 stop at the stop mark on red, which is a
6 standard MUTCD sign.

7 MR. RIES: I believe that the NSF
8 private crossing sign indicates private
9 crossing, no trespassing. So that would be
10 useful.

11 Also a question that would be
12 interesting to, you know, do the railroads
13 also boast a emergency notification sign as
14 part of their private crossing package? A
15 1-800 number to report problems might be
16 something to consider in a suite of signage.

17 MR. SCHWARTZ: I can tell you that
18 Norfolk Southern does.

19 MR. CRUZ: One issue with signs that
20 we have seen at several class one railroads

21 is that the crossing number to identify that
22 particular location has faded, and a lot of
23 times with the 1-800 number, the EMTs or
24 emergency services have a hard time finding
25 it, because the numbers are not on those

1 signs. The signs are actually not that
2 good.

3 MR. RIES: I think over the years, the
4 quality of the signage has improved as far
5 as keeping the numbers there.

6 MS. CARROLL: Skull and cross bones?
7 Anybody use skull and cross bones?

8 MR. RIES: Always expect a train.

9 MS. CARROLL: Always expect a train.

10 MR. FIELD: I always like the one on
11 my e-mail, watch out for the damn train.

12 MS. CARROLL: How about those of you
13 that have active devices at private
14 crossings? I mean, you can consider a
15 lockable gate active, it's sort of the users
16 do the activity.

17 MR. RIES: Active is train activated.

18 MS. CARROLL: Well, there's an active
19 with these people. Train activated private
20 crossing. Anybody have any of those?

21 MR. CRUZ: They have some hump

22 crossings on the active side.

23 MS. CARROLL: Not on the passive?

24 MR. BROWDER: Well, all railroads that

25 have industries with new private crossings,

1 where there is any kind of substantial
2 amount of vehicular traffic are going to
3 require active warning devices in the
4 agreement before they have -- give anybody
5 authority for a new crossing. Shopping
6 centers, sporting arenas. So that's a
7 question that I can answer clearly they are
8 all out there. There are limited numbers.
9 And, again, we're not the highway authority.
10 We are interested though in protecting our
11 liability and our own people by ensuring
12 that there is a significant level of
13 protection provided to ensure safe operation
14 over the crossings.

15 A good example happened twice at the
16 same crossing in Kissimmee, Florida, where a
17 private vehicle operated by the Kissimmee
18 Power Authority was hit by an Amtrak train
19 at a crossing with active warning devices.

20 MR. COTHEN: I thought it was

21 gentlemanly of you to leave out the part
22 where the state police escorted them on to
23 the crossing.

24 MR. BROWDER: Florida State Police.

25 MR. COTHEN: Florida State Police.

1 MR. BROWDER: And videotaping it.

2 MS. CARROLL: So Bill, when the

3 railroads negotiate with industry, is it

4 just based on volume of vehicles or type of

5 vehicle as well? I mean, if you are dealing

6 with --

7 MR. BROWDER: It's probably all of the

8 above. And quite frankly, I would say there

9 are many different aspects to be included,

10 and usually the railroads that I'm familiar

11 with, some of them even will use highway

12 authority consultants to give them a

13 perspective on what would be safe as far as

14 warning devices are concerned.

15 MS. CARROLL: So do you know of

16 anybody that has like a standard checklist

17 of items that they hadn't addressed as they

18 go through this negotiating contract?

19 MR. BROWDER: Yeah, the railroads have

20 a standard -- not a standard checklist, but

21 they have a checklist, proprietary checklist

22 that they use.

23 MR. FIELD: In North Carolina, we

24 apply the same standard to a public use

25 private crossing that the railroad is

1 requiring signals to be engaged that we
2 would of a private road.

3 MS. CARROLL: You use --

4 MR. FIELD: As far as pavement
5 markings, warning signs, we require the same
6 applications, but the issue we run into is
7 we don't have the authority; the railroad
8 does in that case. And what we'll do is we
9 will work with the railroad as well as the
10 developer and their consultants to determine
11 what -- based on what plans they need to
12 send to the railroad, the railroad engineer,
13 the railroad still installs them just like
14 they do on any crossing signal project.

15 MS. CARROLL: Any other topic or items
16 to list under train activated warning
17 devices at private crossings? How about
18 ITS? Anybody ever use any ITS? I know in
19 Minnesota they had the C3 product or
20 whatever that they tried. I don't know if

21 they just demonstrated and that's it.

22 MR. BROWDER: There's nothing out

23 there that doesn't require an FRA waiver,

24 and quite frankly, the issue of failsafe

25 operation that have concern for meeting the

1 FRA guidelines where appropriate, has always
2 been a concern for the railroads.

3 MS. CARROLL: How about grade
4 separation?

5 MR. BROWDER: How about what?

6 MS. CARROLL: Grade separation at
7 private crossing? Anybody done that?

8 MR. BROWDER: I'm sure it's been done,
9 but it's so expensive that it's rare, and in
10 many cases about the only times that that is
11 going to occur is with a little help from
12 our friends at the state that are interested
13 in attracting a major industrial partner.
14 And an example I can think of is Virginia,
15 Coors Beer. I'm sure there are others, but,
16 you know, when you expect to spend anywhere
17 from five to \$25 million for an overpass or
18 underpass, there's got to be a significant
19 reason to do that at a private crossing.

20 MS. CARROLL: Coors didn't want to

21 spill their beer.

22 Do you have something to say?

23 MR. WHITEMORE: No, I was just going

24 to reiterate the same thing that Bill said,

25 is that we require a major food

1 distribution, you know, we had the example
2 North Carolina DOT out in Asheville, we
3 required Winn-Dixie to put an overpass in
4 which they constructed at their expense a
5 silica mining operation that required an
6 overpass that still requires us to give them
7 some property right easement to put the
8 footers in across the railroad and stuff.
9 We have to work those issues out. Very,
10 very rare that somebody wants to spend the
11 money.

12 MS. KLOEPPEL: I guess I'd like to
13 interject, if I could. I hear loud and
14 clear that there are a lot of considerations
15 that you think are identical for public and
16 private crossings, such as the needs for
17 sight distance and the need for consistent
18 work profiles. But are there engineering
19 and design considerations that maybe could
20 be different at private crossings as opposed

21 to public? We've talked a lot about the
22 signs, but we haven't really talked a lot
23 about road design and intersection design.
24 Realistically speaking, we're probably not
25 going to be able to rebuild every private

1 crossing to a public roadway standard. Are
2 there nevertheless some kind of guidelines
3 that we can work toward?

4 MR. FIELDS: Jason Fields, NC DOT
5 again. There are a lot of varying degrees
6 of designs and construction of private grade
7 crossings. There are some, you know, I
8 drive a Suburban, and we are out doing these
9 things in these locations. It scares me to
10 death to cross the tracks, because I can't
11 see anything. I think there should be some
12 guidance as far as supplying an appropriate
13 roadway width for a designed vehicle. You
14 know, if it's a residence, it obviously
15 would be a 24-foot wide crossing. Whereas,
16 if you have a distributor, where you have
17 trucks on it, it would probably be 26 or 28
18 is the minimum for a two-lane crossing.

19 In addition, pavement depths vary
20 greatly. You know, that's another issue.

21 Generally, across the tracks, you have
22 asphalt, which is whatever the height of the
23 rail is, but then as you taper out get off
24 the edge of the ballast line, that pavement
25 runs down to nothing. And it depends on who

1 the road master is, I think, as to what kind
2 of ramification on the edge of the asphalt
3 crossing. I think as a general guideline
4 for a single-lane crossing, there should be
5 nothing, in my opinion, less than 13-foot
6 wide, just for a one-lane crossing, and
7 that's with minimum, I think what any of
8 them should be. You know, preferably you
9 would want something 20 to 24-foot as far as
10 the width of the crossing, just so you don't
11 have people getting hung up on rails late at
12 night, been at the bar or whatever else we
13 all know that people generally do before
14 they go and cross that crossing near their
15 house.

16 And as far as pavement width, I think
17 they should be controlled basically for ease
18 of maintenance of railroad. Generally,
19 there's a contractor that's putting that
20 pavement in. The more that pavement

21 deteriorates, the more they have got to deal
22 with it.
23 We heard this morning that there's
24 issues with possible litigation from private
25 crossings and things of that nature.

1 You know, as far as approach, I would
2 suggest, you know, a typical standard we
3 used for signals and gates would be 15-foot
4 offset. I think that's a reasonable
5 distance to determine the pavement for
6 approaches. So you have got a nice
7 transition you got made from asphalt the
8 whole time, versus going through gravel as
9 you go up the ballast line. It's not really
10 a good idea to have your back tires on a
11 gravel approach if somebody decides to gun
12 it because they see the train coming around
13 the corner.

14 MS. KLOEPPEL: Does anyone else have
15 any other suggested considerations that
16 would make a private crossing different from
17 a public as far as engineering?

18 MR. PETTEWAY: I'd like to say
19 something. I think for us, meaning DOT
20 engineers, it's really hard for us to say

21 anything that's outside of state standards.

22 I think in all aspects, when you have a

23 private road that's at some point in time is

24 going to be a state road, most generally you

25 are going to find them wanting to build to

1 whatever standard, it may be the state
2 standard or municipal standard, where
3 somebody can take over the maintenance.

4 So in a lot of cases, I think from our
5 perspective, we are going to want to see it
6 built to state standards, so at some point
7 in time it can't be taken over.

8 Now, there have been times where the
9 municipality will take over, and their
10 standards would be what we would require.
11 That may be a change there, but I really
12 don't know from a state standpoint. I don't
13 think we can look at anything that was less
14 than what we would require.

15 MR. RIES: Do there need to be
16 different design standards for the different
17 types of crossings?

18 MR. FIELD: You would need two, I
19 think, just for a single driveway. You are
20 not going to necessarily have the same width

21 requirement you would for Long Beverage. So

22 I would say we don't have more than two

23 standards for that kind of thing.

24 MR. PETTEWAY: Right.

25 MR. WHITEMORE: Jason, that would be

1 assuming that you are driving a car over on
2 it, but if you were having a tractor going
3 across, you would have a different standard
4 of a tractor going across the field from
5 side to side versus an automobile.

6 MR. CRUZ: Or a tractor trailer --

7 MR. FIELD: Tractor trail there --

8 MR. WHITEMORE: The resident has a
9 tractor trailer. The reason, I'm asking,
10 you said there only should be two standards.
11 I'm kind of saying let's kind of revisit
12 that and say well, what's the use.

13 MR. FIELD: I think one issue you
14 don't want to get bogged down with too many
15 standards to pick from. If you are looking
16 to have a relatively simple process for
17 application across the board, you know,
18 we're fortunate in North Carolina, we have
19 got to look at stuff we do very often, maybe
20 take the worst case scenario. Assume, okay,

21 the vehicle, maybe a tractor trailer for a
22 single residence, what do you need for that?
23 And, you know, use that as your narrower
24 standard, if you will. If there's a larger
25 standard, have a minimum requirement for a

1 two-lane road. If you have got a guard
2 house going into a facility and a lane on
3 both sides, obviously it's going to be eight
4 feet wider to incorporate the fact that the
5 guard house is on the other side. There's
6 going to be exceptions to these rules
7 anyway, as there always are. That's why we
8 all have jobs.

9 MR. WHITEMORE: Me too.

10 MR. FIELD: Yeah, but perhaps maybe
11 the two standards you should look at is
12 single lane versus multilane and have a
13 certain width generally off the cuff. If
14 somebody says they are building a house on
15 the other side, what do you all require?
16 There's a general guideline well, if there's
17 a tractor trailer and say somebody buys a
18 house years down the road, and they own a
19 truck, you know, if you run into that issue,
20 maybe you use the worst case scenario of

21 that.

22 MR. CRUZ: The question I would have

23 is the standard that you talk about now

24 developing, is it for crossings that exist

25 already, or for new crossings that they are

1 planning to put in? Because if you are
2 trying to build the standard based on
3 existing crossings, the vertical clearance
4 alone, and to be able to change that from
5 the private stand point or requiring
6 somebody to do that will be cost
7 prohibitive. Most private crossings, I
8 would say the ones that we visited, have I'd
9 say 90 percent of them have to have a
10 vertical clearance issue, and how are you
11 going to address that?

12 MR. COTHEN: FRA is progressive and
13 proven in railroad safety. I mean, I think
14 realistically we all have to be talking
15 about perhaps a gold standard for new
16 crossings, both in terms of showing the
17 necessary, if they are suitably configured
18 by engineering, and what's realistic in
19 terms of remediating acute problems out
20 there with other crossings where there's a

21 long history of use and subtle expectations.

22 MR. YOUNG: George Young, NCDOT. If

23 we were able to establish standards for

24 these railroad crossings, how in the world

25 are we ever going to enforce them?

1 MR. COTHEN: Danny left because he can

2 get out the draft of the guidelines. I

3 can't believe we are this deep into this

4 second meeting this just coming up. Tell

5 the railroad to barricade the crossing. I

6 mean, that's effectively what you would have

7 to do if you had a federally led program.

8 MR. YOUNG: Who is going to be out

9 there to determine whether or not any

10 particular crossing, whether it's new or old

11 crossing, meets the prescribed standard? Is

12 it going to be the railroad's

13 responsibility?

14 MR. COTHEN: State inspector.

15 MR. YOUNG: That's where I was afraid.

16 MR. COTHEN: That's an excellent

17 question, and one that would have to be work

18 out.

19 MR. BROWDER: That goes back to the

20 program that I mentioned, that CSX has, and

21 the frustration that the railroad had in
22 trying to implement some kind of programs
23 where they did close crossings, which was
24 completely negated in some locations by
25 local judges issuing orders for them to

1 reopen the crossing. That's exactly what
2 they tried to do.

3 MR. WHITEMORE: Just facts around
4 Bill's statement, just so we understand the
5 magnitude of the issue. We have 9,800 and
6 change private crossings out there. We have
7 680 agreements, okay? So when you look at
8 were they are there and the rates that the
9 people have, you know, now we are
10 researching our deeds. We are trying to
11 figure out if we give them a deed of right
12 to somewhere, as we look through each one of
13 these, I can't imagine we would have two or
14 3,000 deed of rights for crossings, just
15 assume 6 or 7,000 people, we have to
16 litigate or pay off whoever, to get the road
17 crossings closed or whatever, if we don't
18 need them, it becomes a huge problem. And
19 get them to sign an agreement if we do need
20 them, you are crossing our property, we have

21 the expense and liability of that crossing
22 being in place, what's your responsibility
23 as a private owner as you come up with these
24 guidelines, these standards for
25 construction? Who is going to bear that

1 cost? And, you know, we keep coming to that
2 well, barricade them. I say okay. This is
3 a Shane Whitemore, not a railroad CSX
4 perspective, if you say barricaid, that's
5 what I wanted to do all along, going back to
6 option one, just close it. It didn't have
7 the right of clearance, didn't have the
8 right to issue, I just wanted to close it
9 anyway. We don't want it there.

10 MR. COTHEN: I just want to emphasize
11 from the Federal Railroad Administration
12 point of view, that kind of option has been
13 discussed for legitimate safety reasons, and
14 that is that, you know, these collisions
15 derail trains and they harm employees and
16 potentially a danger to the surrounding
17 community. And even where the only person
18 hurt is whoever is in the motor vehicle, and
19 that's something that we want to avoid at
20 all costs, which is why -- not all costs --

21 but every reasonable cost, which is why
22 Miriam started with the statistics on the
23 deaths at private crossings, but even when
24 we don't get to that point, very often, you
25 know, you traumatize railroad employees who

1 have been subjected to the event
2 involuntarily, not something that they could
3 have done anything about. And that's
4 something that we usually don't have to
5 raise from an FRA standpoint, because labor
6 organizations will be the first to do so
7 because their members are those at risk.

8 MS. SPURLOCK: Just two comments I
9 wanted to make regarding municipality.

10 What I've seen in private crossings is
11 the phenomenal costs involved, because some
12 of these are around curves and things that
13 would cost millions just to blow out the
14 mountainside to give the municipality the
15 approach. So that's something we would have
16 to consider there, and also the single
17 versus the multiple lanes. I've seen old
18 probable dirt roads that were just paved
19 over in communities in private crossings but
20 they are only one car wide.

21 So if you set a new standard for
22 private crossings being two lanes, what did
23 you just do to the thousands of roads in all
24 communities that are one-lane wide?
25 MR. FIELD: I think one issue in

1 speaking to that -- we are only looking at
2 two issues here -- one is protection of the
3 crossing, and the other one is the designs
4 that the crossing is put in at. If you
5 drive all over probably any state and as the
6 design changes have changed over time, you
7 don't see the state agency and city agency
8 go back and widening everything from the
9 ground up. If we apply the new standard to
10 utilize, it would be, you know, something I
11 think should be applied on project, as they
12 occur, as they are able to be addressed,
13 because, you know, we have got plenty of
14 roads out here that are 18-foot wide, even
15 though our current pavement standard is 26,
16 and you get up in the mountains, there are
17 some places you have got 14 if you are
18 lucky.

19 And, you know, I think perhaps the
20 biggest thing to look at is the protection

21 of the cross itself. I mean, that's kind of
22 a standard. We've taken on projects here in
23 North Carolina on treating the existing
24 condition as it is, but as we are getting
25 into this private crossing issue, I think

1 it's important, as you all raised, to look
2 at the engineering construction of the
3 private crossing. And if a developer is
4 going in to develop a thousand home
5 community, which we have all over this
6 state, there should be a standard he is held
7 to that the railroad can lean on and say
8 well, you know, according to FRA, this is
9 what's required. This is not just ours,
10 although we currently use that practice.
11 But I think the biggest thing is look at the
12 protection of the crossing and as a
13 secondary have a standard to be utilizing
14 private crossings can be addressed when
15 feasible, when there's money available or
16 when things change there that can be applied
17 to that; not going out there and force
18 everybody to change it today because of this
19 new policy that's out.

20 MS. CARROLL: I have one other

21 thought. Back in 2003, we had a research
22 needs workshop that FRA sponsored and we
23 brought together universities, railroads,
24 states, industry people, suppliers and we
25 talked about what research needs there would

1 be for grade crossings. One of the topics
2 that surfaced was limiting the access to
3 railway lines, that was a topic of research.
4 What I'm hearing is that the rail ways would
5 love to have the ability to say you can't
6 cross my tracks, because I'm under this
7 criteria if I've got 50 trains a day and I,
8 you know, such and such conditions, speeds
9 of, you know, 90 miles an hour, let's not
10 build a grade crossing here.

11 MR. YOUNG: Can't they do that anyway?

12 MS. CARROLL: I would divert to Grady

13 on that one. But it was a research topic
14 that came up that just came to mind based on
15 the comment that CSX made.

16 MR. WHITEMORE: We didn't talk to him.

17 MR. STAYTON: That was Shane, that
18 wasn't CSX.

19 MR. BROWDER: No, she's talking about
20 other stuff.

21 MS. CARROLL: Grady, do you know of
22 any way that a railroad can ask for limited
23 access and to control access to their
24 crossings?
25 MR. COTHEN: Well, some of these folks

1 who deal with this on a daily basis can
2 answer more specifically. But, you know, I
3 think what we're facing here is, you know, a
4 variety of state laws. We had one in the
5 Midwest where an agricultural crossing can
6 be demanded, unless we provide it in one of
7 the states in the Midwest.

8 In some cases, particularly in the
9 east, railroads are operating over
10 easements, and the fee holder can be
11 determined. They may have some residual
12 right to demand access to cross the railroad
13 et cetera, et cetera. I think it's
14 infinitely complicated from a property law
15 standpoint. You know, if we were to
16 regulate in the area, we would regulate on
17 the basis of safety, and under the commerce
18 clause in the interest of getting trains
19 over the railroad safely, and that would be
20 our focus, and the costs would fall where

21 they may. You know, I can't imagine FRA
22 trying to determine how the costs would be
23 distributed.

24 MR. WHITEMORE: Except my
25 understanding talking with New York DOT,

1 that on their high-speed corridors they
2 either have passed legislation or are in the
3 process of working on legislation that says
4 on a high-speed corridor, for safety reasons
5 would take over denying or have a crossing
6 removed, private crossing removed.

7 MR. RIES: I was thinking that's
8 probably the only, from an FRA legislative
9 regulatory perspective, would be our safety
10 standards for high-speed trains, where
11 crossings cannot be at 125 miles an hour or
12 greater, there might be a hook there if you
13 had a high-speed area and came and wanted to
14 put in a crossing.

15 MR. WHITEMORE: I think that's what
16 they've done, passenger high speed.

17 MS. CARROLL: Any other comments or
18 questions, engineering design, anything in
19 general?

20 MR. YOUNG: I guess I might just

21 question whether or not that's something you
22 need to look at beyond classifying crossings
23 for protection purposes. In other words, I
24 thought we were here today to find out what
25 kind of protection to provide existing

1 crossings and not to maybe establish a
2 standard for construction.

3 MS. CARROLL: I think the charge was
4 everything and anything that we can hear.
5 So I think it's open to any inquiry, any
6 safety discussion. With that, I'm going to
7 turn it back over to Grady. I'm done with
8 my piece.

9 MR. COTHEN: What I'd like to do is
10 I'd like to ask parties if you would think
11 about another one of these three dimensional
12 things. We have got issues working here
13 related to characteristics of, other than
14 public crossings, which we will call private
15 crossings for the heck of it, and these are
16 crossings that our colleagues in the state
17 DOT don't have full control over for one
18 reason or another, and we refined some
19 categories of private crossings that we
20 began to etch out in Minnesota, and we will

21 feed that back and put that in the docket.

22 We talked about possible needs for
23 closure or basic signage, more advanced
24 signage, perhaps grade separation as
25 warranted. We've heard that all of those

1 really are relevant issues already in the
2 field. And we noted that there are a
3 variety of documents, resources available
4 from the public crossing side that may
5 provide guidance maybe on all fours, as we
6 say in legalese, with the private crossing
7 side, or it may not require distinctions to
8 be made.

9 There's one aspect of this that we
10 mentioned only in passing, and one of the
11 reasons that we have such close association
12 and only one with North Carolina DOT is
13 their leadership in the high speed passenger
14 service business, the sealed corridor
15 project. And what they've shown is
16 necessity of moving out with innovative or
17 elaborate treatments to deal with not only
18 the exposure to persons using the roadway,
19 but also the exposure of passengers on
20 trains. That's kind of the extreme example.

21 And in the northeast corridor, by the
22 way, Washington and New York, each and every
23 highway rail crossing, public and private,
24 has been removed because of safety
25 considerations on the passenger train side,

1 and a great deal of effort was put in to
2 removing each and every crossing in Boston
3 with only, I believe, 12 remaining in the
4 state, all of which have very elaborate
5 treatments. Some of them having elaborate
6 treatments.

7 So another dimension for consideration
8 is the degree of activity on the rail side,
9 the speeds involved which drives accident
10 severity both on the highway and the rail
11 side and the mix of activity, freight,
12 passenger, hazardous material and so forth.
13 And as we talk about what may be warranted,
14 what may be standard in these circumstances,
15 certainly we would want to take into
16 account, as we consider the effective and
17 proportional use of both public and private
18 sources would be the degree and risk at the
19 crossing related to the nature of the rail
20 operation.

21 So that turns into a pretty elaborate
22 and complicated set of public policy issues.
23 And what you all need to do, don't do it
24 while you are driving at home, keep your
25 mind on driving, if you are taking public

1 transportation or perhaps sitting on the
2 front porch with some ice tea this
3 afternoon, if you have further thoughts
4 about that subject or as a team, for
5 instance, we can get the North Carolina DOT
6 to get back together after the meeting and
7 have another brainstorming session, we would
8 love to have your thoughts, not only with
9 regard to how you think things ought to come
10 out, but as we've done today in several
11 instances, what further inquiry you think we
12 should make before we make any suggestion on
13 behalf of the affected communities as to
14 what direction we ought to go.

15 Okay. This is a big job, and I think
16 we've had a good day in Raleigh. And is
17 there anybody else who feels like they
18 haven't had a chance to speak about their
19 issues today before we move on, adjourn,
20 that is?

21 Well, if not, the docket will remain
22 open, and you are certainly invited to
23 contribute.

24 We thank North Carolina DOT for their
25 guidance and help to arrange the facility

1 and the day and helping us lead on. We
2 thank everyone who has been in attendance
3 and is in attendance for their participation
4 in the meeting, and I'm going to go home and
5 tell my bosses that the railroad showed up
6 and talked, so everybody can relax.

7 With that, this public inquiry is
8 adjourned.

9 (Whereupon the hearing was concluded
10 at 3:17 p.m.)

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