

ROAD CASE

No. 580a

PETITION FILED

Mar 10 190

BOND FILED

Mar 10 190

APPOINTED COMMISSIONER
H. O. Edwards
Mar 10 190

COMMISSIONER REPORTED

favorably
Mar 12 190

NOTICE SERVED

Mar 13 190

OBJECTIONS FILED

Apr 18 190

CLAIMS FILED

May 11 190

APPRAISERS APPOINTED

June 18 190

APPRAISERS REPORTED

June 18 190

DAMAGES ALLOWED, - \$

COSTS ALLOWED, - - - \$ 6.60

June 18 190

ROAD ESTABLISHED

July 21 190

TOWNSHIP CLERK NOTIFIED

July 23 190

BEFORE THE BOARD OF SUPERVISORS OF BLACK HAWK COUNTY, IOWA.

IN THE MATTER OF THE ESTABLISHMENT OF A PROPOSED
HIGHWAY, commencing at the intersection of the East
Line of Section 21, Township 89, North, Range 13,
West of the 5th P.M. with the Waterloo & Cedar Falls
road, No. 218, and running thence North to the inter-
section with the Whitney road, No. 541, said road to be
forty (40) feet wide and to lie directly west of and
adjacent to the East line of said section 21-89-13.
}

} PROTEST AND

} CLAIM FOR

} DAMAGES.

Comes now The Chicago, Rock Island & Pacific Railway
Company and protests against the establishment of the above highway
and for reason for said protest shows to the Board:

1st: That the proposed highway if established will serve
no public purpose in that it will benefit and will be used only by
one or two land owners.

2nd: That this proceeding is an attempt to take private
property for private use.

3rd. That the existing highways are reasonably accessible
to all property owners in the vicinity of the proposed highway.

4th. That the expense of constructing said highway will
be excessive and unreasonable in proportion to the benefits to the
public.

5th. That it is inequitable, unjust, unreasonable and
illegal to establish this highway at public expense for the benefit
of private persons.

6th. That said proposed highway will cross the right of
way and track of this Railway Company at a point where it is extreme-
ly dangerous for the reason that said trains approaching from the
west cannot be seen by a traveler until he is practically upon said
crossing on account of the heavy timber on each side of the right
of way immediately west of this proposed crossing which shuts off

Railway Company due to the dangerous place at which said proposed highway will cross its right of way and track.

8th. That the said County has no power or authority to use the right of way and track of said Railway Company at said point for the proposed highway, for the reason that said right of way and track of this Railway Company are now devoted to one public use and that the same cannot be devoted to another public use inconsistent with the public use to which the same was first devoted.

9th. Said Railway Company further shows to the Board that there is now a public highway which crosses the right of way and track of this Railway Company at a point about 600 feet Northwest of the place where the proposed road will cross said right of way and track; that it would be more feasible and less dangerous to the public in case said proposed highway is established to extend said highway about 600 feet northwest along said right of way until it intersects with the present highway, thereby avoiding the construction of an additional and dangerous crossing over said right of way and track.

Subject to the foregoing protest the said Railway Company claims that it will be damaged by the establishment of said proposed highway in the sum of Two Hundred Twenty-five (\$225) Dollars.

WHEREFORE, the said Railway Company asks that in case said proposed highway is established that its claim be allowed and paid in the sum of \$225.00.

Carroll Wright, J. L. Parrish
J. H. Johnson and Miller Williams
Attorneys for The Chicago, Rock
Island & Pacific Railway Company.

W. L. EATON, CHAIRMAN
D. J. PALMER
N. S. KETCHUM

*In your reply address "The Board of
Railroad Commissioners."*

State of Iowa
**The Board of
Railroad Commissioners**

Des Moines

DWIGHT N. LEWIS
SECRETARY
THOS. H. BOYLAN
CLERK.

May 25, 1908.

HIGHWAY CROSSING: C. R. I. & P. Ry. Co. vs. Board of
Supervisors, Black Hawk County.
Docket F 85,

Board of Supervisors, Black Hawk Co.,

Waterloo, Iowa.

Gentlemen:

As you have been previously advised, the Board has before it the remonstrance of the C. R. I. & P. Ry. Co. against the establishing of certain crossing in your county, on account of the alleged dangerous character of such crossing.

The Board expected to go to your place before this and view the premises, but find it impossible to do so this week. The Commissioners now understand it is your intention to act upon this highway matter the first of June. Owing to the sickness of the wife of the Chairman of this Board, it cannot now be determined when the Board will be able to go to your place, and would suggest that you defer action upon this highway crossing until after such time as the Board can go there and view the premises. As early a date will be fixed as is possible and the matter disposed of so far as this Commission is concerned at an early date thereafter.

Will you please advise whether your Board of Supervisors will comply with the suggestion in this letter and defer your action to some future date.

Very truly yours,


Secretary.

DNL-W

W. L. EATON, CHAIRMAN
D. J. PALMER
N. S. KETCHUM

*In your reply address "The Board of
Railroad Commissioners."*

State of Iowa
**The Board of
Railroad Commissioners**
Des Moines

DWIGHT N. LEWIS
SECRETARY
THOS. H. BOYLAN
CLERK.

July 7, 1908.

Docket F 85,

HIGHWAY CROSSING: C. R. I. & P. Ry. Co., vs. Board of
Supervisors, Black Hawk Co.

Board of Supervisors, Black Hawk County,

Waterloo, Iowa.

Gentlemen:

Please refer to letter from this Board of May 25th,
with reference to establishing of certain highway crossing
in Black Hawk Co., as follows:

"Commencing at the intersection of the east line of
Section 21, Township 89, North, Range 13, West of the 5th
P.M., with the Waterloo & Cedar Falls Road, No. 218, and
running thence North to the intersection with the Whitney
road, No. 541, said road to be 40 feet wide, and to lie
directly west of and adjacent to the east line of said
section 21-89-13."

and the remonstrance of the C. R. I. & P. Ry. Co. thereto.

The Commissioners will go to Waterloo Thursday, July 9th,
arriving there probably in the afternoon, and proceed
immediately to the premises in question. They would like to
meet your Board upon the ground at that time, as the
Commissioners expect to look into the matter of safety to the
public.

Very truly yours,

Dwight N. Lewis

Secretary.

DNL-W

W. L. EATON, CHAIRMAN
D. J. PALMER
N. S. KETCHUM

In your reply address "The Board of
Railroad Commissioners."

State of Iowa
**The Board of
Railroad Commissioners**
Des Moines

DWIGHT N. LEWIS
SECRETARY
THOS. H. BOYLAN
CLERK.

April 16, 1908.

Docket F 85,

HIGHWAY CROSSING: C. R. I. & P. Ry. Co., vs. Board of
Supervisors, Black Hawk County.

Board of Supervisors,

Waterloo, Iowa.

Gentlemen:

Please note the enclosed copy of complaint made by the
C. R. I. & P. Ry. Co., concerning proposed highway west of
Waterloo. The Commissioners have set Tuesday, May 5th,
upon the premises for inspection and hearing with reference to
this crossing. Will you kindly be present at that time.

Very truly yours,

Dwight N. Lewis

Secretary.

DNL-W

Enc.

line of this Railway Company at a point where a large number of
trains are operated over said track daily and at a necessarily high
rate of speed.

4th. That the establishment of said proposed highway
will materially interfere with the operation of the trains of this

BEFORE THE BOARD OF RAILROAD COMMISSIONERS OF THE STATE OF IOWA.

Chicago, Rock Island & Pacific
Railway Company,

vs.

Board of Supervisors of Black Hawk County, Iowa.

COMPLAINT

Comes now The Chicago, Rock Island & Pacific Railway Company and respectfully represents that it is a corporation engaged in the business of a common carrier, and that it operated a line of railway through Black Hawk County, Iowa; that a petition has been filed with the Auditor of Black Hawk County, asking that a highway be established in said County, as follows:

"Commencing at the Intersection of the East line of Section 21, Township 39, North, Range 13, West of the 5th P.M., with the Waterloo & Cedar Falls road, No. 218, and running thence North to the intersection with the Whitney road, No. 541, said road to be 40 feet wide and to lie directly west of and adjacent to the East line of said Section 21-39-13."

That the said proposed highway will cross the right of way and track of this Railway Company at a point where it is extremely dangerous to the public for the following reasons:

1st. In that the view to the West of said proposed highway crossing is obstructed by timber on both sides of said right of way so that trains approaching from the West could not be seen by a traveler until he was practically upon said crossing, and in that there would be a constant danger of injury by said trains approaching from the West.

2nd. The said road will run diagonally across the right of way and track of this Railway Company.

3rd. That said proposed highway will cross the main line of this Railway Company at a point where a large number of trains are operated over said track daily and at a necessarily high rate of speed.

4th. That the establishment of said proposed highway will materially interfere with the operation of the trains of this

Road No. 580-A

COMMISSION, OATH
AND
REPORT OF APPRAISERS

APPOINTED TO
APPRAISE DAMAGES SUSTAINED BY
THE LOCATION OF HIGHWAY.

Filed June 18 1908

J. P. Rambow
Auditor.

300-9850-4-7-04

Compensation of Commissioners

<i>J. L. Whitney</i>	<i>One day</i>	<i>\$ 2.20 Paid</i>
<i>J. C. Keppner</i>	<i>" "</i>	<i>2.20 Paid</i>
<i>M. Gully</i>	<i>" "</i>	<i>2.20 Paid</i>

OATH OF APPRAISERS.

STATE OF IOWA, Black Hawk County, ss:

We, the undersigned, J. L. Whitney, M. Gilly
and W. E. Leeper
do solemnly swear that we will faithfully and impartially discharge the duties conferred upon us by
the foregoing Commission, according to law, and the best of our ability. So help us God.

J. L. Whitney

M. Gilly

W. E. Leeper

Subscribed and sworn to before me by

M. Gilly and J. L. Whitney

this 18 day of June 1908

J. P. Rainbolt

in and for said County.

REPORT OF APPRAISERS.

To the Board of Supervisors, Black Hawk County, Iowa:

The undersigned, Commissioners appointed and named in the foregoing Commission, respectfully report that, in compliance with the instructions therein, we proceeded on the 18
day of June A. D. 1908 at the hour of 10 o'clock A. M., after

having been first duly sworn, according to law, to view the ground described in the foregoing Commission, and we do hereby award damages sustained by reason of the location of the Highway described in the foregoing Commission, as follows:

To	Dollars
To	Dollars
To	Dollars
To	Dollars
To	Dollars
To	Dollars

All of which is respectfully submitted.

M. Gilly

W. E. Leeper

J. L. Whitney Appraisers.

The said L. R. & P. Co. claims to be the owner of the
rightway of said road
and claims damages in the sum of Two Hundred fifty 250.00 Dollars.

The said claims to be the owner of the
.....
and claims damages in the sum of Dollars.

The said claims to be the owner of the
.....
and claims damages in the sum of Dollars.

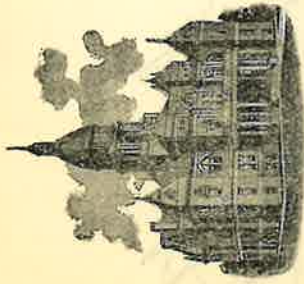
The said claims to be the owner of the
.....
and claims damages in the sum of Dollars.

The said claims to be the owner of the
.....
and claims damages in the sum of Dollars.

The said claims to be the owner of the
.....
and claims damages in the sum of Dollars.

You, and each of you, will therefore be and appear before Auditor
Walters on the 18 day of June 1908 at the
hour of 10 o'clock A.M. of said day, and be by him duly sworn according to law, and thence
proceed on the same day to perform the duties herein conferred upon you, according to law, and
make report of the same to this office on or before the 1 day of Sept 1908.

WITNESS my hand and official seal hereunto affixed, this 18
day of June 1908
J. D. Lambert
County Auditor.



J. J. RAINBOW, AUDITOR
H. O. DOUGLASS, DEPUTY

Office of
County Auditor—
Black Hawk County

State of Iowa, }
Black Hawk Co. } ss.

Waterloo, Iowa, July 10 1908

To the Chicago, Rock-
Island & Pacific Railway Co.:

You are hereby notified that the Board of
Superior Judges of Black Hawk County
Iowa, have set Monday July 20-1908
as the day for final hearing and
for consideration of claims for
damages in the Humphreys Road
case, and if you wish to be heard
further in this matter before the es-
tablishment of said road, you are
directed to appear at that court
hearing in said county upon that
date.

Given under my hand and offi-
cial seal this 10th, day of July, 1908.

J. J. Rainbow, Auditor
H. O. Douglass, Deputy

State of Iowa. } ss. Ad.:-
Black & White Co. }

I, H. O. Dargass, hereby certify
that I serve as the within named DuPar
Mr. C. F. Hayes, Agent of the Chicago,
Rock Island and Pacific Ry. Co., offer-
ing to read it to him and by reading
with him, advise ~~copy~~ of same.

In testimony whereof I
set my hand this 10th day of July
A.D. 1908.

H. O. Dargass.

Filed July 10, 1908
J. M. and Son, Clerk
H. O. Dargass

W. L. EATON, CHAIRMAN
D. J. PALMER
N. S. KETCHUM

*In your reply address "The Board of
Railroad Commissioners."*

State of Iowa
**The Board of
Railroad Commissioners**
Des Moines

DWIGHT N. LEWIS
SECRETARY
THOS. H. BOYLAN
CLERK.

HIGHWAY CROSSING: CRI&P Ry.Co. v. Board of Supervisors,
Black Hawk County.

July 16, 1908.

Mr. J. J. Rainbow,

Auditor, Black Hawk County,

Waterloo, Iowa.

Dear Sir:

Enclosed herewith please find copy of decision
of this Board in the complaint of the C. R. I. & P. Ry. Co.
v. the Board of Supervisors of Black Hawk County with
reference to the establishment of highway crossing.

Very truly yours,

Dwight N. Lewis

DNL-g
incl.

Secretary.

PETITION FOR NEW ROAD.

TO THE AUDITOR

Of Black Hawk }
County, Iowa.

The undersigned, citizens of said County, respectfully petition for a New County Road, beginning at the intersection of the east line of Section Twenty-one (21) Township Eighty-nine (89) north Range Thirteen (13) West of the Fifth P. M. with the Wapella and Cedarville roads (No. 28), and running the road north to intersect with the Whitney road (No. 54), said road to be forty feet wide and to lie directly west of and adjacent to the east line of Section 20-89-13

and we ask that a Commissioner be appointed to view the proposed route, pursuant to the statute in such case made and provided.

NAMES.

P. P. Hummel

NAMES.

Auditor's Office, Blackhawk County, Iowa.

To

J. E. Hedgcock

You are hereby notified, that you have been appointed a Commissioner to view, and if required to locate a County Road, petitioned for by

J. P. Hummel

and others, and described as follows:

Commencing at

the intersection of the east line of Section (21) Township (89) Range (13) West of the 10th P.M. with the West of Cedar Falls Road, 70 ft. and running thence north to a big spruce at which Whitney Road, 79.54 ft. said road to be forty (40) feet wide and to lie directly west of and adjacent to the east line of said Section 21-89-13

and terminating at

You will therefore appear at the office of some Justice of the Peace, Notary Public, or other proper officer and qualify according to law, and on the 17th day of March, A. D. 1898 you will proceed to make an examination of the route above described. If, in your judgment, the above road is needed, or one in the vicinity of the route described, answering the same purpose, you may call to your assistance the necessary aid, and each being duly sworn, cause said line to be accurately surveyed and plainly marked out.

You will connect your starting point with the nearest section corner or quarter post. When, however, there is a corner of a forty established in a permanent manner, more convenient, you may connect with it. In crossing a section line, note that fact, and state the distance from the nearest section corner or quarter post. The plat of the survey to accompany the field notes should be on the scale of forty chains to the inch, with the section crossed by the survey laid off upon the like scale, and correctly numbered as per United States survey. Also, note all natural or artificial monuments or conspicuous objects, and the junction of streams. Also, report the number of bridges required, if any, and the probable cost thereof, on the proposed highway, as required by Chap. 80, Laws 19th General Assembly. A strict compliance with these requirements is necessary, in order to establish a uniformity in the practice, and to enable the Clerk to correctly transcribe them for record.

You will report your proceedings, together with a correct plat of the proposed road to this office on or before the 17th day of April, A. D. 1898

WITNESS my hand and official seal at

Maderia

this

17th, day of

March, A. D. 1898

J. P. Hummel

Auditor.

W. A. Douglas Deputy

State of Iowa, }
Black Hawk County, } ss.

I, J. E. Sedgwick do solemnly swear that I will faithfully and to the best of my ability perform the duties of Commissioner of the above described road.

W. Coleman

Subscribed and sworn to before me by J. E. Sedgwick
the 12th day of March, A. D. 1898
H. D. Douglass
Deputy Co. Auditor

REPORT OF COMMISSIONER.

To the County Auditor of Black Hawk County:

The undersigned, appointed by you a Commissioner to examine into and report upon the expediency of locating

a road described in the foregoing commission, respectfully reports:
in favor of such a location
as prayed for in said petition.

Also, further reports that there will be 70 bridges needed on said proposed highway,
and that the probable cost thereof will be _____ Dollars.

ROAD NOTICE

STATE OF IOWA }
BLACKHAWK COUNTY } ss

OFFICE OF THE COUNTY AUDITOR

TO ALL WHOM IT MAY CONCERN:

The Commissioner appointed to locate a highway, as follows:
beginning at the line between
the east line of Section twenty-one
(No. 1) Township eight of Range (No. 18) Range
thirteen (No. 13) West of the 7th
with the Waterloo & Cedar Falls road
(No. 28), and running thence north
to intersect with the Whitney road
(No. 54), said road to be forty (40) feet
wide and to lie directly west of and
adjacent to the east line of said
Section. 71-89-13

has reported in favor of locating said road as prayed for,
and all objections thereto, or claims for damages must be filed in the Auditor's office in said County,
on or before noon of the 17th day of May 1908
or such highway will be established without reference thereto.

Given under my hand and Official Seal at Waterloo, the
County Seat of said County, this 17th day of

March 1908

J. G. Macdonald
County Auditor.
J. H. O. Douglass
Deputy.

STATE OF IOWA }
BLACKHAWK COUNTY } SS

I, H. O. Daughlass, being duly sworn, do upon oath say that on
the 13th day of March A. D. 1908, in Waterloo and East Waterloo Township, in
said County, I personally served the within notice on C. F. Hayes Agent of the
C. & N. W. P. Railway Co. and C. A. Rogers Auditor
of the Waterloo Cedar Falls and Northern Ry.
Co.

and in their hearing, and by delivering to them ~~the~~ true copy of
said notice.

H. O. Daughlass

Subscribed and sworn to before me by the said H. O. Daughlass this 13th
day of March 1908

J. E. Pettit

Deputy Clerk

Road

SERVICE OF NOTICE

No. 580-A

FILED
MAR 13 1908
COUNTY AUDITOR

ROAD NOTICE

ROAD BOND.

STATE OF IOWA, } ss:
Black Hawk County,

KNOW ALL MEN BY THESE PRESENTS:

That we, *J. P. Hummell*

of the County of *Black Hawk*
and State of Iowa, are held and firmly bound unto the County of *Black Hawk* in the sum of
One Hundred

DOLLARS,

for the payment of which, well and truly to be made, we bind ourselves, our heirs, executors, administrators, and every one of them, firmly by these presents.

THE CONDITION of the above obligation is such, that whereas, *said J. P.*

Hummell and others
~~have~~ this day made application by petition to the *Board of Supervisors*
of said County to appoint a Commissioner to view and *locate* a road, to be
called *J. P. Hummell Road*

Now, if said *J. P. Hummell*
shall pay all costs that may be adjudged against him by the Board of Supervisors, in accordance with the statute in such case made and provided, then this obligation to be void, otherwise to be and remain in full force and virtue.

W ITNESS our hands, this *4th* day of *June*, A. D. 190*6*,

J. P. Hummell
C. Hummell

STATE OF IOWA, *Black Hawk* County, ss:

I do solemnly swear that I am a resident of the State of Iowa, and have property in said State beyond the amount of my debts in the sum of *One hundred* Dollars,
and have property in this State exempt from execution equal to the sum of *One hundred*

Dollars.

J. P. Hummell
Subscribed and sworn to by *J. P. Hummell* before me,
this *4th* day of *June*, A. D. 190*6*,
C. Hummell

The above bond and sureties approved this _____ day of _____ A. D. 19

Auditor.

By _____ Deputy.

No.
BEFORE THE BOARD OF RAILROAD COMMISSIONERS OF THE STATE OF IOWA.
The Chicago, Rock Island & Pacific
Railway Company,

v.

The Board of Supervisors of
Black Hawk County, Iowa.

Highway Crossing.

DECISION OF THE BOARD.

On the 16th day of April, 1908, the Chicago, Rock
Island & Pacific Railway Company filed its complaint with this
Commission as follows:

BEFORE THE BOARD OF RAILROAD COMMISSIONERS OF THE STATE OF IOWA.

Chicago, Rock Island & Pacific
Railway Company,

vs.

Board of Supervisors of Black Hawk County, Iowa.

COMPLAINT.

Comes now the Chicago, Rock Island & Pacific Railway
Company and respectfully represents that it is a corporation
engaged in the business of a common carrier, and that it
operated a line of railway through Black Hawk County, Iowa;
that a petition has been filed with the Auditor of Black Hawk
County, asking that a highway be established in said county,
as follows:

"Commencing at the Intersection of the East line of
Section 21, Township 89, North, Range 13, West of the 5th
P. M., with the Waterloo & Cedar Falls road, No. 218, and
running thence North to the intersection with the Whitney
road, No. 541, said road to be 40 feet wide and to lie
directly west of and adjacent to the East line of said
Section 21-89-13."

That said proposed highway will cross the right of
way and track of this Railway Company at a point where it is
extremely dangerous to the public for the following reasons:

1st. In that the view to the West of said proposed
highway crossing is obstructed by timber on both sides
of said right of way so that trains approaching from the West
could not be seen by a traveler until he was practically upon
said crossing, and in that there would be a constant
danger of injury by said trains approaching from the West.

2nd. The said road will run diagonally across the right

of way and track of this Railway Company.

3rd. That said proposed highway will cross the main line of this Railway Company at a point where a large number of trains are operated over said track daily and at a necessarily high rate of speed.

4th. That the establishment of said proposed highway will materially interfere with the operation of the trains of this Railway Company; due to the dangerous place at which said highway will cross its right of way and track.

This complainant shows to this Board that in case the proposed highway is established it will be a constant danger and menace to the lives of persons using the same; that the right of way and track of said railway company at the point where the said proposed highway will cross the same is now devoted to one public use and that the same cannot be devoted to another public use inconsistent with the public use to which the same was first devoted.

This complainant further shows to this Board that there is now a public highway which crosses the right of way and track of this railway company at grade at a point about 600 feet Northwest of the place where the proposed road will cross its right of way and track; that it would be more feasible in case said proposed highway is established, to extend said highway 600 feet north-west along said right of way until it intersects with the present highway thereby avoiding the construction of an additional and dangerous crossing over said right of way and track.

Reference is hereby made to the accompanying map, marked Exhibit "A", hereto attached and made a part of this complaint, which shows the exact location where the proposed highway will cross the right of way of this ~~company~~ railway company, and which also shows the exact location where the present highway crosses said right of way.

WHEREFORE, this complainant respectfully asks that this Board investigate said proposed highway and location thereof at the point where it will cross the right of way and track of this Company and that an order be ~~made~~ entered restraining the Board of Supervisors of Black Hawk County, from establishing the said highway across the right of way and track of this Railway Company as prayed for in said petition.

THE CHICAGO, ROCK ISLAND & PACIFIC RY. CO.
BY Carroll Wright, J. L. Parrish
and J. H. Johnson,
its attorneys.

It was ordered by the Board that a hearing be had upon such complaint upon the premises in controversy on the 9th day of July, 1908. Due notice of said hearing was given by letter to the Board of Supervisors of Black Hawk County and to the Chicago, Rock Island & Pacific Railway Company.

Now on this 9th day of July, 1908, the Board of Railroad Commissioners of the state of Iowa, visits and inspects the premises in controversy. The members of the Board were all present. The complainant railroad company appeared by its attorney, Mr. J. H. Johnson; no appearance was made by the Board of Supervisors of Black Hawk County.

Upon investigation, the Board finds that statements and allegations contained in the complaint are true:

1. That the proposed highway will cross the track of the said railroad company diagonally at a point at or about 600 feet east of a grade crossing upon a public highway running from Cedar Falls to Waterloo;
2. That said proposed highway will cross the line of said railway company at a point where a large number of trains are operated over said track daily and at a necessarily high rate of speed;
3. That lying along the south side of said track is a hill or elevation. That said proposed highway would pass over and down said hill or elevation to the railway track;
4. That along said highway on the south side and covering said hill or elevation are growing trees and standing timber. That the view of passing trains would necessarily be obstructed by said hill and timber from persons using said proposed highway;
5. That it is not feasible to have an under or over crossing for said highway at said point;
6. That all grade crossings are in themselves dangerous and a menace to the traveling public;
7. That this danger would be greatly increased by the

fact that there would be two grade crossings within 600 feet of each other;

8. That a highway established at said point would be a great danger and menace to the traveling public using said highway, and in the operation of the complainants trains.

We find as matters of law that the general powers given by statute to this Commission invests with jurisdiction over the operation of the railway tracks in this state; The method of operating the railways over the same and all means which relate to the security of said operation and to the safety of the general public transported on said trains;

It is therefore the opinion of this Board that the proposed highway, would, if established, be a continual menace to life and a source of danger to the traveling public and that said highway ought not to be established at the point proposed.

The Board further finds that there is no reason why said proposed highway, if established, should not be laid along the south side of the right of way of the complainant until it meets the highway above described, to enable it to use the grade crossing now in use on said highway; or the present grade crossing can be moved easterly to a point where it will accommodate both the present highway and the proposed highway and thus have the one crossing do for the two highways at a comparatively small expense in vacation and relocation of the present highway. This Board refuses its consent to the establishment of said highway as proposed. The Board consents to the establishment of said highway provided it is so located that there shall be but one grade crossing for the use of both of said highways.

Des Moines, Iowa, July 15, 1908.