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STATE OF NEW YORK
DEPARTMENT OF TRANSPORTATION

FEB 24 1994

At the Office of the Department
of Transportation in the City
of Albany on February 22, 1994

PRESENT:

JAMES D. CARTIN, Director
Carrier Certification and Compliance Bureau

CASE 32191 - Proceeding on motion of the Commissioner of Transportation for a determination pursuant to Section 95 of the Railroad Law as to whether the grade crossing carrying Scott Avenue over the tracks of Consolidated Rail Corporation in the Village of Castleton-on-Hudson, Rensselaer County, should be closed and discontinued.

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By order adopted January 10, 1994 the Commissioner of Transportation having instituted a proceeding to determine whether or not public interest requires the closing and discontinuance of the crossing carrying Scott Avenue over the tracks of the Consolidated Rail Corporation in the Village of Castleton-on-Hudson, and after due notice a public hearing having been held; and it having been determined that subsequent to the completion of the construction of a pedestrian separation structure on property located in the Village of Castleton-on-Hudson adjacent to the western right-of-way of the Consolidated Rail Corporation and in the vicinity of Scott Avenue that the crossing carrying Scott Avenue over the tracks of the Consolidated Rail Corporation should be closed, it is

O R D E R E D:

1. A chain link fence fitted with a gate will be constructed along the right-of-way of the Consolidated Rail Corporation on the eastern side of its tracks in the vicinity of the Scott Avenue grade crossing. The gate will be under the control of Castleton officials and access will be afforded to those whose duties require their presence on the property.

2. That upon completion of the pedestrian separation structure into the above described property that the public grade crossing carrying Scott Avenue over the tracks of the Consolidated Rail Corporation be closed and discontinued, and that the automatic gates and flashing lights now installed at that location for the protection of the public be removed, and that appropriate barricades be erected.

By the Carrier Certification and
Compliance Bureau

A handwritten signature in cursive script, appearing to read "A. J. [unclear]", is written over the text of the signature line.

BH:md

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DEPARTMENT OF TRANSPORTATION

APPROVED FEBRUARY 22, 1994

CASE 32191 - Proceeding on motion of the Commissioner of Transportation for a determination pursuant to Section 95 of the Railroad Law as to whether the grade crossing carrying Scott Avenue over the tracks of Consolidated Rail Corporation in the Village of Castleton-on-Hudson, Rensselaer County, should be closed and discontinued.

APPEARANCES:

Darrell W. Harp, Assistant Commissioner for Legal Affairs for the New York State Department of Transportation, (by William J. Dwyer, Esq.), 1220 Washington Avenue, Albany, New York 12232.

BERNARD HELLER, Administrative Law Judge:

By order adopted January 10, 1994, the Commissioner of Transportation instituted this proceeding, pursuant to Section 95 of the Railroad Law, to determine whether or not public interest requires the closing and discontinuance of a crossing carrying Scott Avenue over the tracks of the Consolidated Rail Corporation (Conrail) in the Village of Castleton-on-Hudson (Castleton), Rensselaer County.

A public hearing was held at Castleton on January 24, 1994 on this matter. Testimony in support of the petition was given by Clarence W. Scott, Director of the Grade Crossing and Signal Section of the Department of Transportation, Seth Honeyman, Mayor of Castleton and Maggie Vinciguerra, Executive Director of Greenway Conservancy for the Hudson River Valley. Conrail submitted a written statement dated February 8, 1994 in which it expressed approval for the closing of the Scott Avenue grade crossing but indicated that it has certain questions about the manner in which the work would take place. There was no opposition to the closing of this crossing.

Castleton is situated on the east bank of the Hudson River about 15 miles south of the City of Troy, and has a population of 1,500 inhabitants. Two main tracks of Conrail extend in a north-south direction from Albany to New York City, passing through Castleton, and as here relevant, crossing Scott Avenue at Castleton in a perpendicular manner. That crossing is now protected by automatic gates and flashing lights. Route 9J is just east of the Conrail tracks, and extends parallel to them in Castleton; a distance of about 100 feet separates Route 9J from the Conrail tracks at Scott Avenue. (See map in attached appendix.) As a motorist proceeds west along Scott Avenue from Route 9J toward the Scott Avenue grade

crossing the terrain is level. On the western side of the crossing the grade of the land descends about seven feet and then becomes level until it reaches the banks of the Hudson River. To a motorist heading west on Scott Avenue and arriving at the crossing, the view to the south along the tracks is somewhat obscured by the presence of a building so that to obtain an unobstructed view of the tracks in that direction it is necessary to drive up to the crossing. During the week Monday through Friday Amtrak operates 20 passenger trains Monday through Friday, ten in each direction, at a maximum speed of 110 mph, with fewer trains on the weekend. There is only one freight train operated per day, primarily on the easterly track, in either direction at a maximum speed of 50 mph.

To the west of the Scott Avenue crossing is a parcel of land, about an acre in area, surrounded on the north, south and west by the Hudson River. This land, improved with a steel building, is owned by Robert Williams, who for about 12 years conducted a business there known as Hudson Marine Sales where he sold boats and accessory marine equipment, and also repaired and maintained boats. That business was closed and discontinued in July 1993. Castleton has negotiated for the sale of this land, and Robert Williams and Castleton have entered into a written purchase agreement for the sale of this parcel for \$165,000, if title to the land passes to Castleton on or about March 2, 1994. The proposed sale was ratified by the Castleton Board of Trustees on January 19, 1994. Castleton intends to dismantle the building now on this property and to create a park for the use of its residents. The Village also agrees to close the Scott Avenue grade crossing; access to the park would be achieved by means of a pedestrian underpass to be constructed beneath the Conrail tracks; the underpass would connect the area of the Village east of the tracks and the northern section of the parcel to be sold by Robert Williams. A chain link fence with a gate would be constructed along the Conrail right-of-way along the eastern side of its tracks; the gate would give access to crossing and the Williams property and would remain in use until the pedestrian underpass is completed. The gate would be under the control of Village officials. The fencing would be constructed in such a manner so as not to interfere with the view of the Hudson River afforded to Castleton residents in this area. A chain link fence now stands along the western side of the Conrail tracks separating the Williams parcel from the Conrail right-of-way. The proposed underpass would be sufficiently large to accommodate small maintenance equipment, such as mowers, and would also be fitted with tubing that would enable the Castleton Fire Department to obtain water from the Hudson River in emergency situations.

The Department desires to close the Scott Avenue crossing in Castleton as a safety measure. The concern for safety is amplified by the plans of this Department for initiating a high speed

passenger rail service between Albany and New York City. On January 21, 1994 the Department and Castleton entered into a written memorandum of understanding which provides for these objectives, as well as the proposed construction by Castleton of a riverfront park on the land accessed via the public grade crossing over Scott Avenue. The Department also agreed to make federal matching funds available to reimburse Castleton for the purchase of the Williams property, for the removal of the building now situated on that property, for the construction of a pedestrian underpass connecting Castleton and this property and for the construction of fencing where appropriate.

The Greenway Heritage Conservancy for the Hudson Valley (Greenway) is a public benefit corporation that is part of the Executive Department of the Governor's Office. Greenway is charged with continuing the commitment of New York State to the preservation and protection of the natural, cultural, scenic, historical and recreational resources of the 10 county area of the Hudson Valley consisting of Albany, Rensselaer, Columbia, Greene, Ulster, Dutchess, Orange, Putnam, Rockland and Westchester Counties and the town and village of Waterford (Saratoga County). Greenway's executive director, Maggie Vinciguerra, testified that Lieutenant Governor Stanley Lundine has asked Greenway to be involved in the development of high speed passenger rail service between Albany and New York City, and in particular, to be attentive to the preservation, as much as practicable and consistent with such service, of access by residents of this area to the Hudson River. Ms. Vinciguerra stated that the proposed closing of the Scott Avenue grade crossing at Castleton was consistent with this objective, and, on behalf of Greenway, she commended the efforts of the Department of Transportation in cooperating with Castleton and in being sensitive to the concerns of its residents regarding their access to the Hudson River.

Conrail, in a letter dated February 8, 1994, from J. D. Cossel, its chief engineer for design and construction, gave its full support to the contemplated closure of the Scott Avenue grade crossing in Castleton, but expressed some reservations about certain aspects of the proposed elimination. Conrail noted that the gate which is to be part of the chain link fencing to be erected along the eastern border of its right-of-way in the vicinity of the crossing, would give the public access to the crossing and would be under the control of Castleton officials, a situation which Conrail believes would continue to expose the public to danger. Instead, Conrail advocated a complete elimination of the crossing as soon as possible, and proposed the construction of a permanent barricade at the crossing to prevent public access, together with the simultaneous removal of existing automatic gates and flashing lights now in place there. Conrail suggested that it enter into a

licensing agreement with Castleton to provide that Village officials would have access to the property to be acquired by Castleton to demolish the commercial building now in place on that property, and to construct a pedestrian underpass and a park at that location. Conrail also asked for clarification regarding the responsibility for maintaining the chain link fence the Department proposes to have placed along its eastern right-of-way. Furthermore, Conrail noted that it has not been consulted about the design of the proposed pedestrian underpass, stated its concern about the time period needed for all of this work, and asked for some assurance that the involved construction would be performed in a timely manner so that danger to the public with regard to its use of this crossing will be minimized.

Discussion and Recommendation

This proceeding has been instituted by the Commissioner under Section 95 of the Railroad Law to determine whether the grade crossing carrying Scott Avenue over the Conrail tracks in Castleton should be closed and discontinued. This initiative was undertaken as part of the inauguration of high speed passenger rail service between Albany and New York City.

Castleton has manifested a clear desire to have the Scott Avenue crossing closed. In the process of accomplishing that objective Castleton will acquire a parcel of land which is separated from the main area of Castleton by the Conrail tracks; to reach that property it is now necessary to traverse the Scott Avenue crossing. The property, formerly used for commercial purposes is now vacant and will be purchased by Castleton with the financial assistance of this Department. The land will be made into a park to which Castleton residents will have access by means of a pedestrian underpass. When this project is completed a permanent barricade will be erected to close the Scott Avenue crossing. Until that work is completed it is necessary to maintain access to the crossing. A chain link fence will be constructed along the eastern side of the Conrail right-of-way in Castleton, extending approximately between the northern and southern boundaries of the riverfront property to be acquired by Castleton, and fitted with a gate at the Scott Avenue grade crossing; the gate will be under the control of Castleton officials, and access will be afforded to those whose duties require their presence on this property. To close the crossing prior to the completion of this project would be impractical. It is in the public interest to close the Scott Avenue grade crossing.

Castleton and Conrail should enter into an agreement regarding the maintenance of the chain link fence to be erected along the Conrail right-of-way. Conrail should also be fully advised of all plans

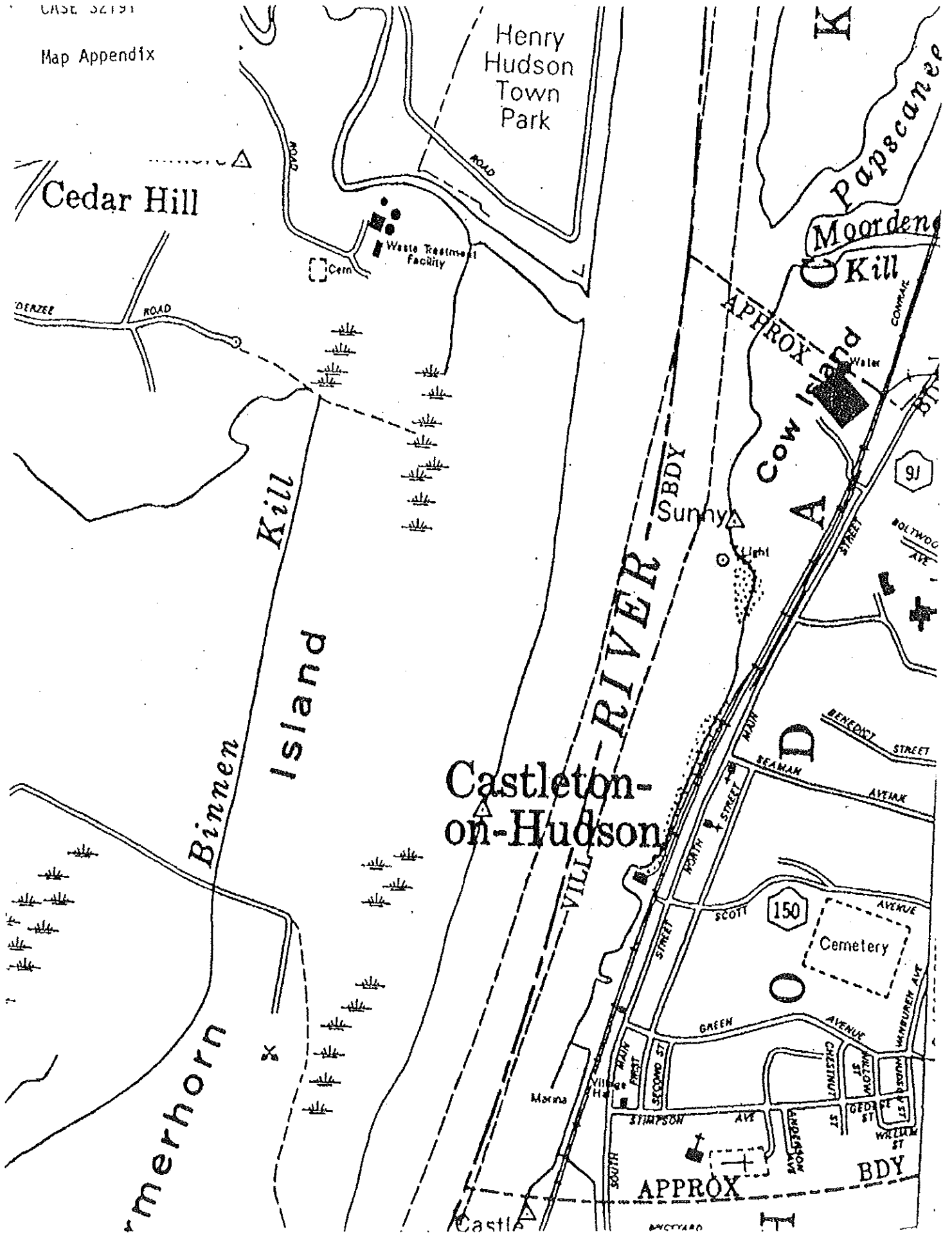
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regarding the construction of the proposed pedestrian underpass to connect Castleton with the land it will purchase from Robert Williams.

It is therefore recommended that the grade crossing of Scott Avenue over the tracks of Conrail in Castleton should be closed when work has been completed on the pedestrian separation structure that will be constructed. At that time the automatic gates and flashing lights now in place at the crossing should be removed. All of this work should be completed by October 1995.

February 18, 1994
BH:md

Bernard Heller



Castleton-on-Hudson