





# City of West Allis

7525 W. Greenfield Ave.  
West Allis, WI 53214

## Resolution

**File Number: R-2008-0011**

**Final Action:**

**Sponsor(s):** Public Works Committee

**JAN 15 2008**

Resolution Authorizing City Attorney to File a Complaint with the Office of Commissioner of Railroads against Union Pacific Railroad Company for removal of railroad tracks in West Electric Avenue and repair of railroad crossings located in South 60th Street, South 82nd Street and South 80th Street.

This resolution relates to the following railroad crossings located in the City of West Allis:

- S. 80 St., U.S. DOT Crossing No. 177247V at Milepost 87.20 of the Milwaukee Subdivision at West Allis, WI
- S. 60 St., U.S. DOT Crossing No. 177236H at Milepost 85.90 of the Milwaukee Subdivision at West Allis, WI
- S. 82 St., U.S. DOT Crossing No. 177248C at Milepost 87.34 of the Milwaukee Subdivision at West Allis, WI
- West Electric Avenue, U.S. DOT Crossing No. 177231Y at Milepost 85.4 of the Milwaukee Subdivision at West Allis, WI

Whereas, pursuant to reports made by the City Engineer and in accordance with Wis. Stat. §86.12(1), the Common Council of the City of West Allis passed Resolution Nos. R-2007-0042 and R-2007-0217 requiring the Union Pacific Railroad Company to repair the railroad crossings identified above located in the City of West Allis and Resolution No. R-2007-0270 requiring Union Pacific Railroad Company to remove the railroad spur crossing identified above at West Electric Avenue in the City of West Allis and further authorized the City Administrative Officer/Clerk/Treasurer to serve a copy of said resolutions upon Union Pacific Railroad Company and all other state and federal officials as required by Wisconsin State Statutes; and,

Whereas, on or about February 12th, 2007, September 10th, 2007 and November 12th, 2007, the City Administrative Officer, Clerk/Treasurer served a copy of the above-stated resolutions by certified mail on the Union Pacific Railroad Company; and,

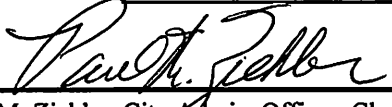
Whereas, more than thirty (30) days have elapsed since said notice and to date, the Union Pacific Railroad Company has failed to make any repairs whatsoever to said railroad crossings; and,

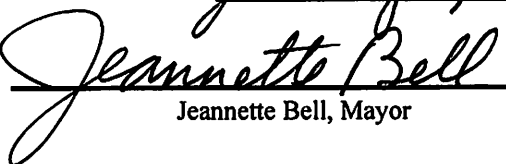
Whereas, the Common Council of the City of West Allis may file a complaint with the Office of the

Commissioner of Railroads alleging the failure of Union Pacific Railroad Company to honor the terms of the resolution and request an investigation into this matter pursuant to Wis. Stat. §86.12(2).

Now, Therefore, Be It Resolved, by the Common Council of the City of West Allis that the Office of the City Attorney is hereby authorized to file a complaint and handle all legal matters associated with the same, on behalf of the Common Council, with the Office of the Commissioner of Railroads in accordance with Wis. Stat. §86.12(2) for the investigation, removal of the railroad spur at West Electric Avenue and ultimate improvement of the railroad crossings in S. 60th, S. 80th and S. 82nd Streets as herein described.

ATTR-Addl Complaint Against UP Railroad Co

ADOPTED            JAN 15 2008  
  
\_\_\_\_\_  
Paul M. Ziehler, City Admin. Officer, Clerk/Treas.

APPROVED *January 17, 2008*  
  
\_\_\_\_\_  
Jeannette Bell, Mayor





January 21, 2008

OFFICE OF THE CITY ATTORNEY

Scott E. Post  
City Attorney

Sheryl L. Kuhary  
Jeffrey J. Warchol  
Cheryl L. Wentland  
Assistant City Attorneys

Attorney Douglas S. Wood  
Office of the Commissioner of Railroads  
P.O. Box 8968  
Madison, WI 53708-8968

RE: Repair of Railroad Crossings Located in the City of West Allis

Dear Mr. Wood:

Please be advised that I am the Assistant City Attorney handling the above-referenced matter for the City of West Allis. Enclosed please find an original and one (1) copy of a Complaint for Failure to Repair/Maintain Railroad Crossings and accompanying documentation in support thereof in this case. Please file stamp the copy as being "received" by your office and return it to me in the enclosed, self-addressed, stamped envelope.

The City is filing this Complaint against Union Pacific Railroad Company pursuant to City of West Allis Resolution No. R-2008-0011, a copy of which is attached to the Complaint and Wisconsin Statute Sec. 86.12, which the City has fully complied with in this matter. The City kindly requests that your office conducts an investigation and determines the matter in controversy pursuant to Chapter 195 of the Wisconsin Statutes. The City is willing to cooperate in any manner you deem necessary to assist in the investigation of this case.

In that regard, please direct all inquiries, etc. regarding this matter to my attention at the address below. Thank you for your anticipated cooperation in this matter.

Sincerely,

Jeffrey J. Warchol  
Assistant City Attorney

JJW:da

Enclosures

L/Jeff/Itr-Atty Wood-Compl RR Crossings

cc: Michael G. Lewis (encl.)  
Brian Block (w/o encl.)  
Scott E. Post (w/o encl.)  
Ann Neff (encl.) ✓



**COMPLAINT FOR FAILURE TO REMOVE/REPAIR/MAINTAIN RAILROAD CROSSINGS**

**TO:** Attorney Douglas S. Wood  
Office of the Commissioner of Railroads  
P.O. Box 8968  
Madison, WI 53708-8968

**STATE OF WISCONSIN )**  
**: ss**  
**MILWAUKEE COUNTY )**

Michael G. Lewis, being first duly sworn on oath, states the following:

1. That I am the City Engineer for the City of West Allis and have held said position since June of 2000.

2. That the following railroad crossings are located in the City of West Allis, Wisconsin:

S. 80 St., U.S. DOT Crossing No. 177247V at Milepost 87.20 of the Milwaukee Subdivision at West Allis, WI

S. 60 St., U.S. DOT Crossing No. 177236H at Milepost 85.90 of the Milwaukee Subdivision at West Allis, WI

S. 82 St., U.S. DOT Crossing No. 177248C at Milepost 87.34 of the Milwaukee Subdivision at West Allis, WI

West Electric Avenue, U.S. DOT Crossing No. 177231Y at Milepost 85.4 of the Milwaukee Subdivision at West Allis, WI

3. That said railroad crossings are the property of Union Pacific Railroad Company.

4. That said railroad crossings are in need of immediate repairs and replacements; that the current condition of the railroad crossings are hazardous and present a danger to the community at large, as well as vehicles traveling over and about said crossings; that photographs of the current condition of said railroad crossings taken by an employee of my department on October 25<sup>th</sup>, 2007, are attached hereto and incorporated herein by reference as Exhibit "A".

5. That the City's Engineering Department has made attempts to work with Union Pacific Railroad Company employees to repair said crossings referenced herein but to no avail; that the West

crossing and install new prefabricated concrete crossings at South 60<sup>th</sup>, South 80<sup>th</sup> and South 82<sup>nd</sup> Streets as described herein; that a copy of Resolution No. R-2008-0011 authorizing the City Attorney to handle this matter on behalf of the Common Council is attached hereto and incorporated herein by reference as Exhibit "D".

10. That the following railroad crossings are located in the City of West Allis, Wisconsin:

S. 55 St., U.S. DOT Crossing No. 177234U at Milepost 85.58 of the Milwaukee Subdivision at West Allis, Wisconsin

S. 57 St., U.S. DOT Crossing No. 177235B at Milepost 85.71 of the Milwaukee Subdivision at West Allis, Wisconsin

11. That said railroad crossings are the property of Union Pacific Railroad Company.

12. That on June 1<sup>st</sup>, 2007, the Commissioner of Railroads signed an Order requiring the Union Pacific Railroad Company to repair the crossings stated in Paragraph No. 10 herein by fully renewing said crossings with a concrete-paneled surface by October 1<sup>st</sup>, 2007. That a copy of the Final Decision and Order of the Commissioner of Railroads is attached hereto and incorporated herein by reference as Exhibit "E".


13. That to date, despite the Commissioner's Order, only temporary repairs have been made to said crossings; that photographs of the current condition of said railroad crossings taken by myself during the month of November, 2007, are attached hereto and incorporated herein by reference as Exhibit "F".

14. That a photograph taken by an employee of my department on January 1<sup>st</sup>, 2007, showing the proper method of repair that should be made to the S. 55<sup>th</sup> and S. 57<sup>th</sup> Street crossings in accordance with the Commissioner's Order is attached hereto and incorporated herein by reference as Exhibit "G".

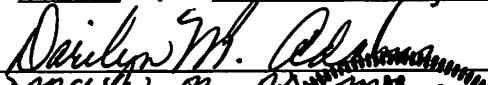
15. That I make this Complaint pursuant to Common Council Resolution R-2007-0076, the Commissioner of Railroads Order dated June 1<sup>st</sup>, 2007, and Wis. Stat. Sec. 86.12(2) and request the

Office of Commissioner of Railroads to investigate this matter in controversy as provided in Chapter 195 of the Wisconsin Statutes and issue an Order to Union Pacific Railroad Company directing it to make the necessary repairs to the crossings at S. 55<sup>th</sup> and S. 57<sup>th</sup> Street described herein in accordance with the previous Order of the Commissioner of Railroads; that a copy of City of West Allis Resolution No. R-2007-0076 is attached hereto and incorporated herein by reference as Exhibit "H".

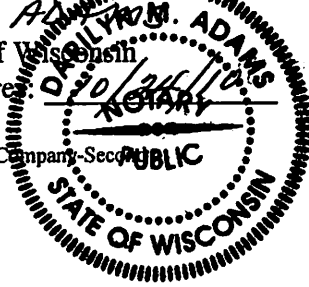
Dated at West Allis, Wisconsin, this 17<sup>th</sup> day of January, 2008.

  
Michael G. Lewis  
City Engineer

Subscribed and sworn to before me  
this 17<sup>th</sup> day of January, 2008.

  
( DARLYN M. ADAMS )  
Notary Public, State of Wisconsin  
My Commission Expires: 12/31/10

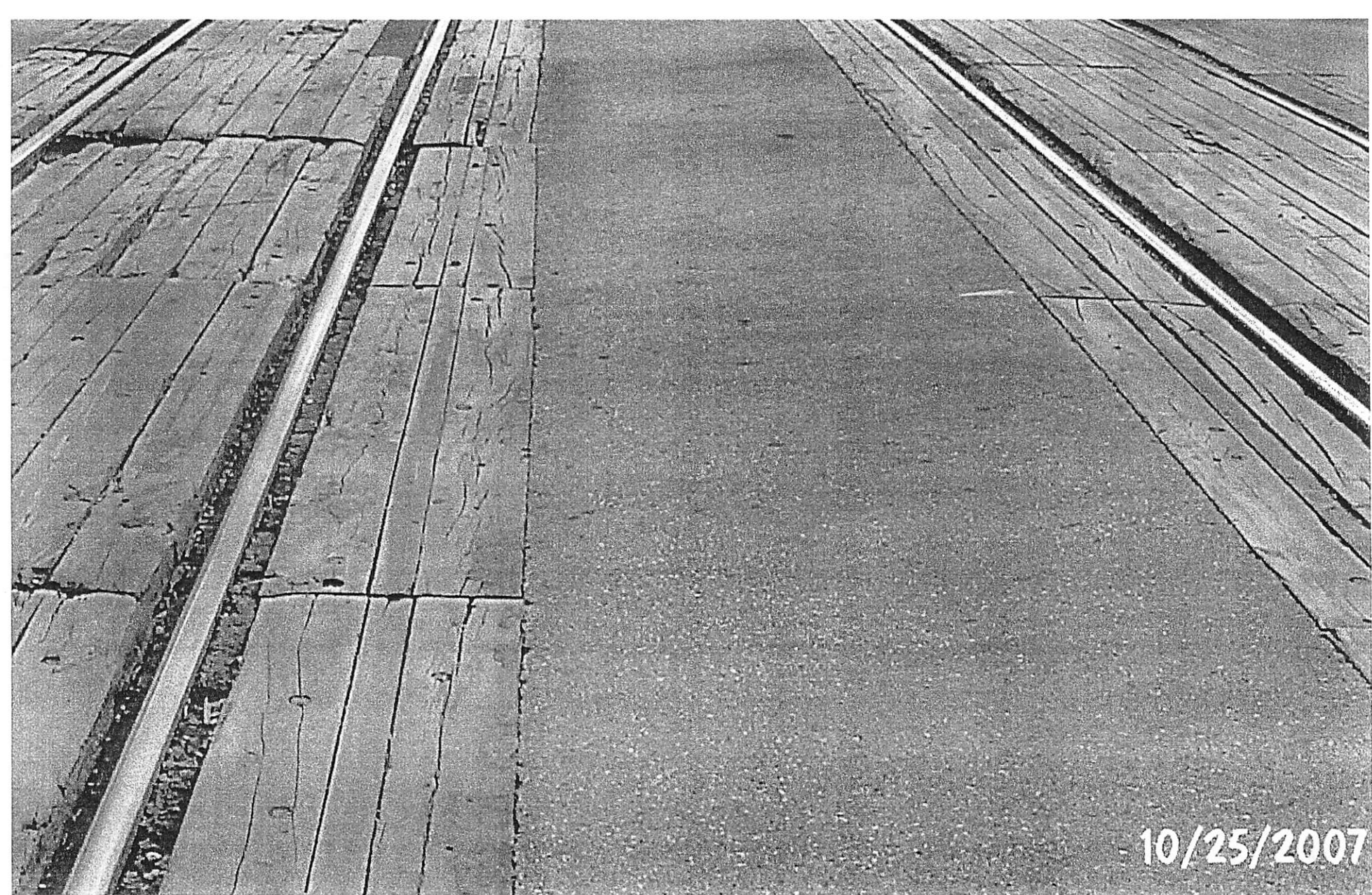
L/Jeff/Complaint-UP Railroad Company-Section

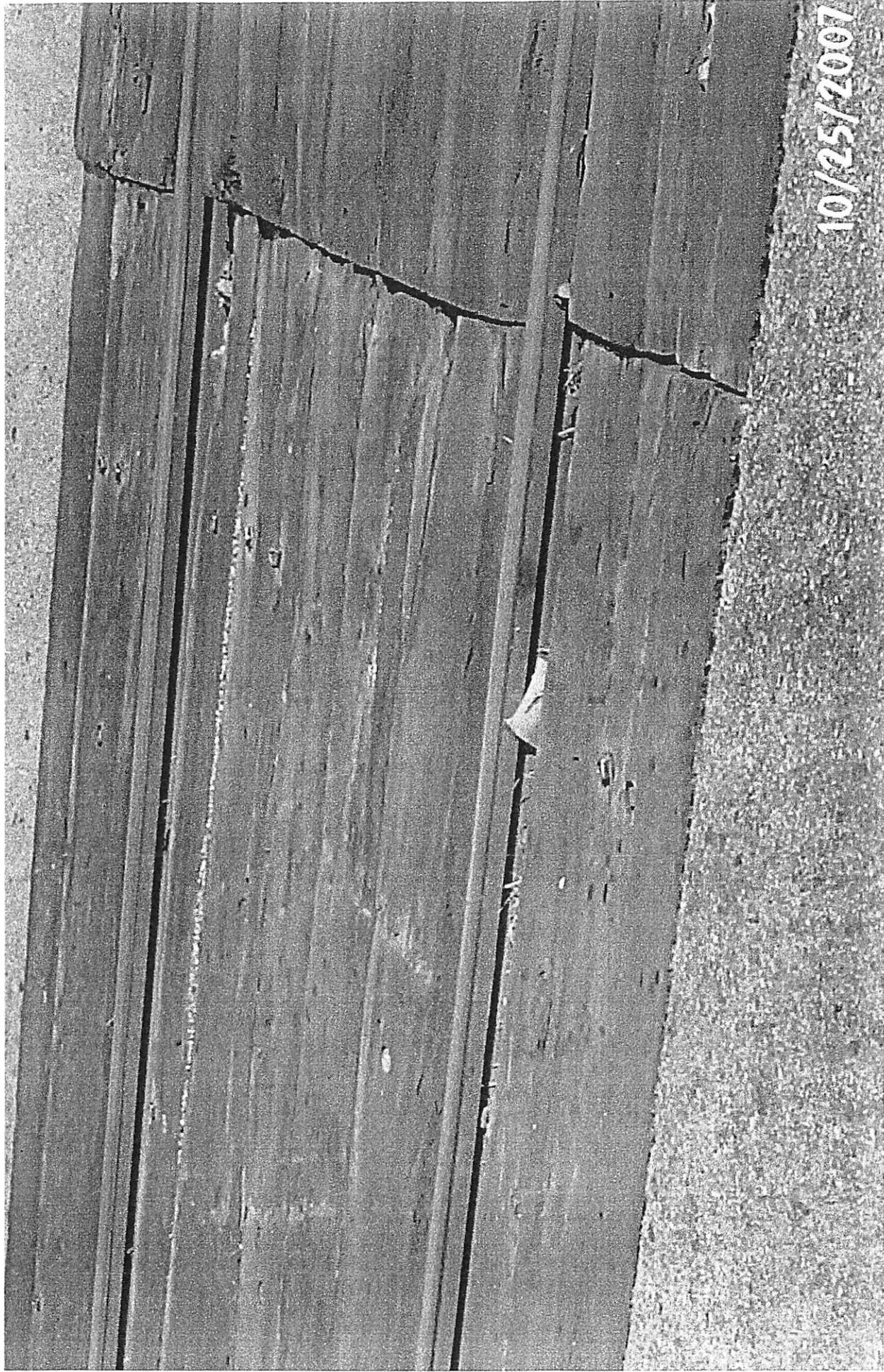




10/25/2007

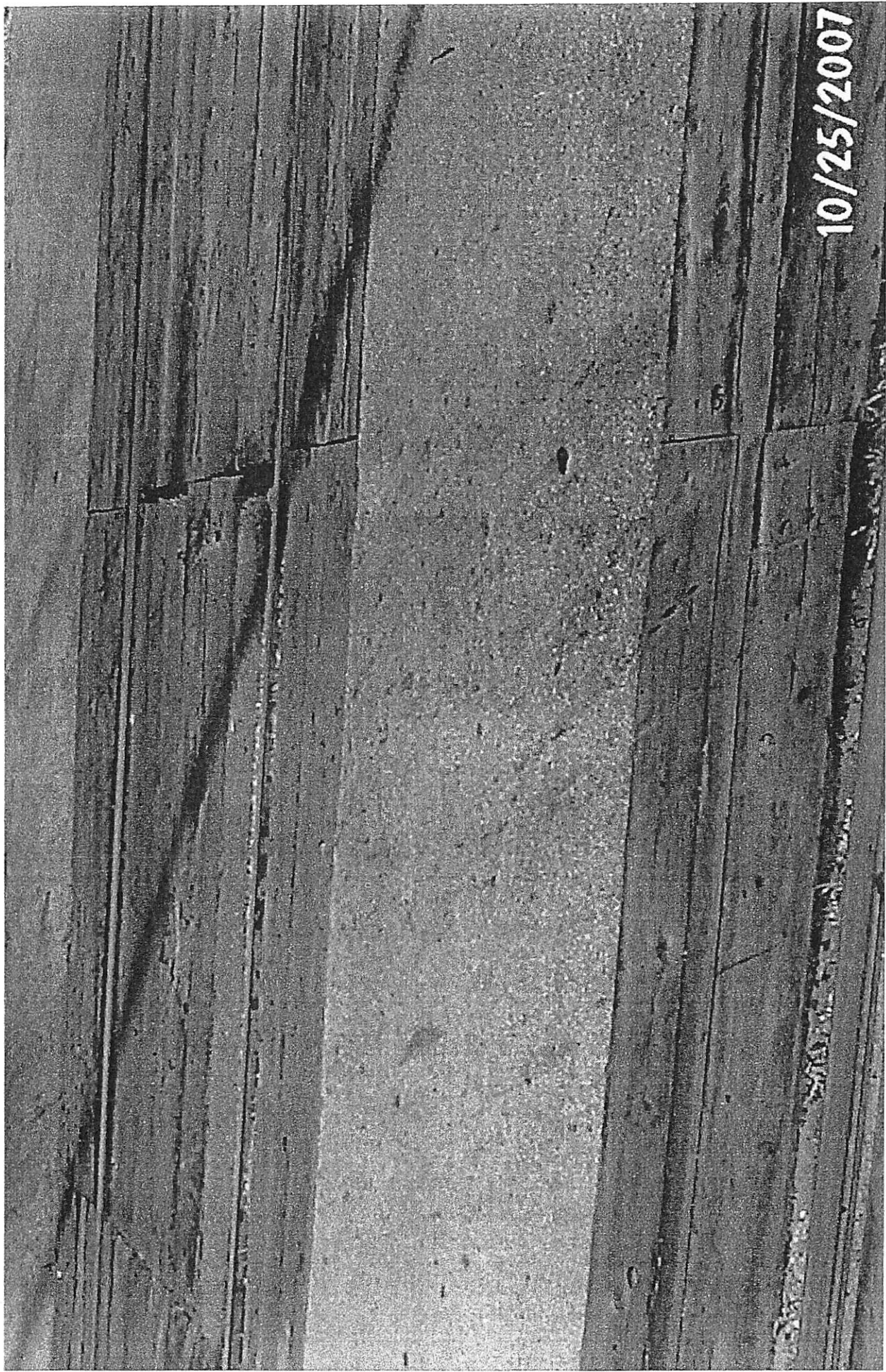
Block on 10-25-07 of the UPRR At-Grade crossing at S. 60 St. U.S DOT crossing No. the tracks looking southeast.





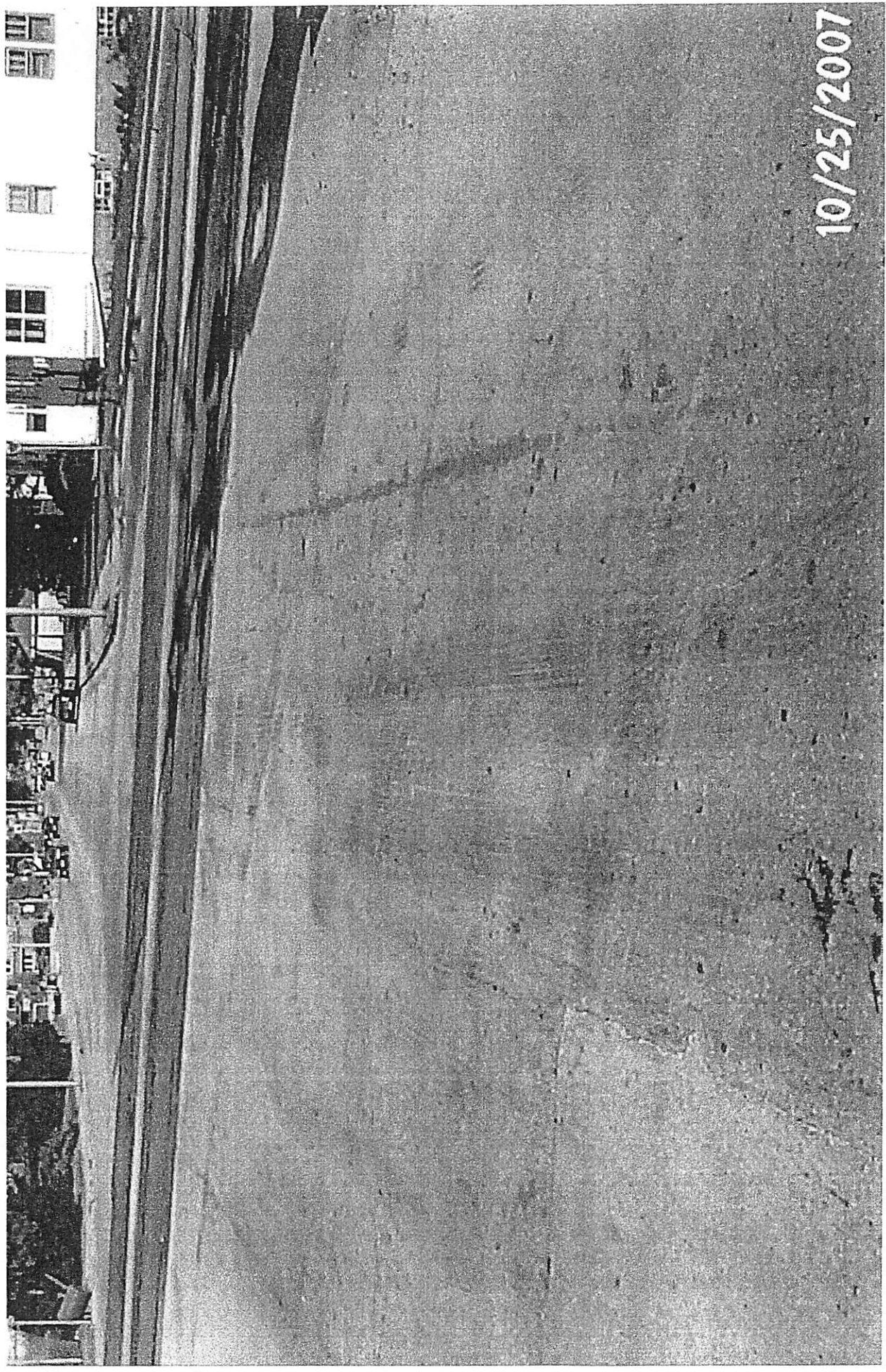
Block on 10-25-07 of the UPRR At-Grade crossing at S. 60 St. U.S DOT crossing No. 10/25/2007  
north of tracks looking north.





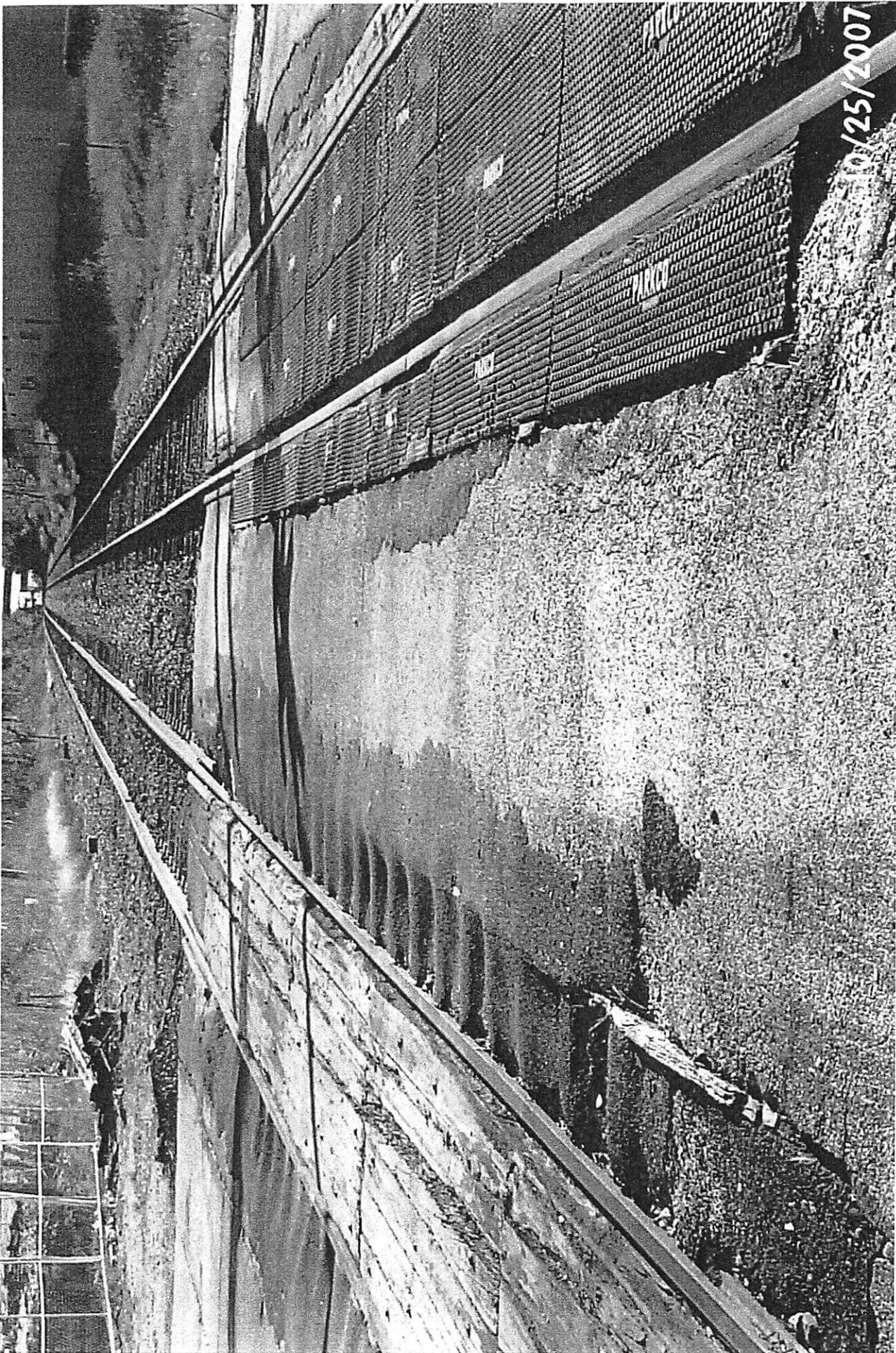
Block on 10-25-07 of the UPRR At-Grade crossing at S. 60 St. U.S DOT crossing No. 10/25/2007  
th of tracks looking north.





10/25/2007

Block on 10-25-07 of the UPRR At-Grade crossing at S. 60 St. U.S DOT crossing No. 10-25-07 of tracks looking north.



Picture taken by Brian Block on 10-25-07 of the UPRR At-Grade crossing at S 80 St. U.S DOT crossing No. 177247V. Standing at the tracks looking east.





Picture taken by Brian Block on 10-25-07 of the UPRR At-Grade crossing at S 80 St. U.S DOT crossing No. 177247V. Standing south of tracks looking north





10/25/2007

Picture taken by Brian Block on 10-25-07 of the UPRR At-Grade crossing at S 80 St. U.S DOT crossing No. 177247V. Standing south of tracks looking north

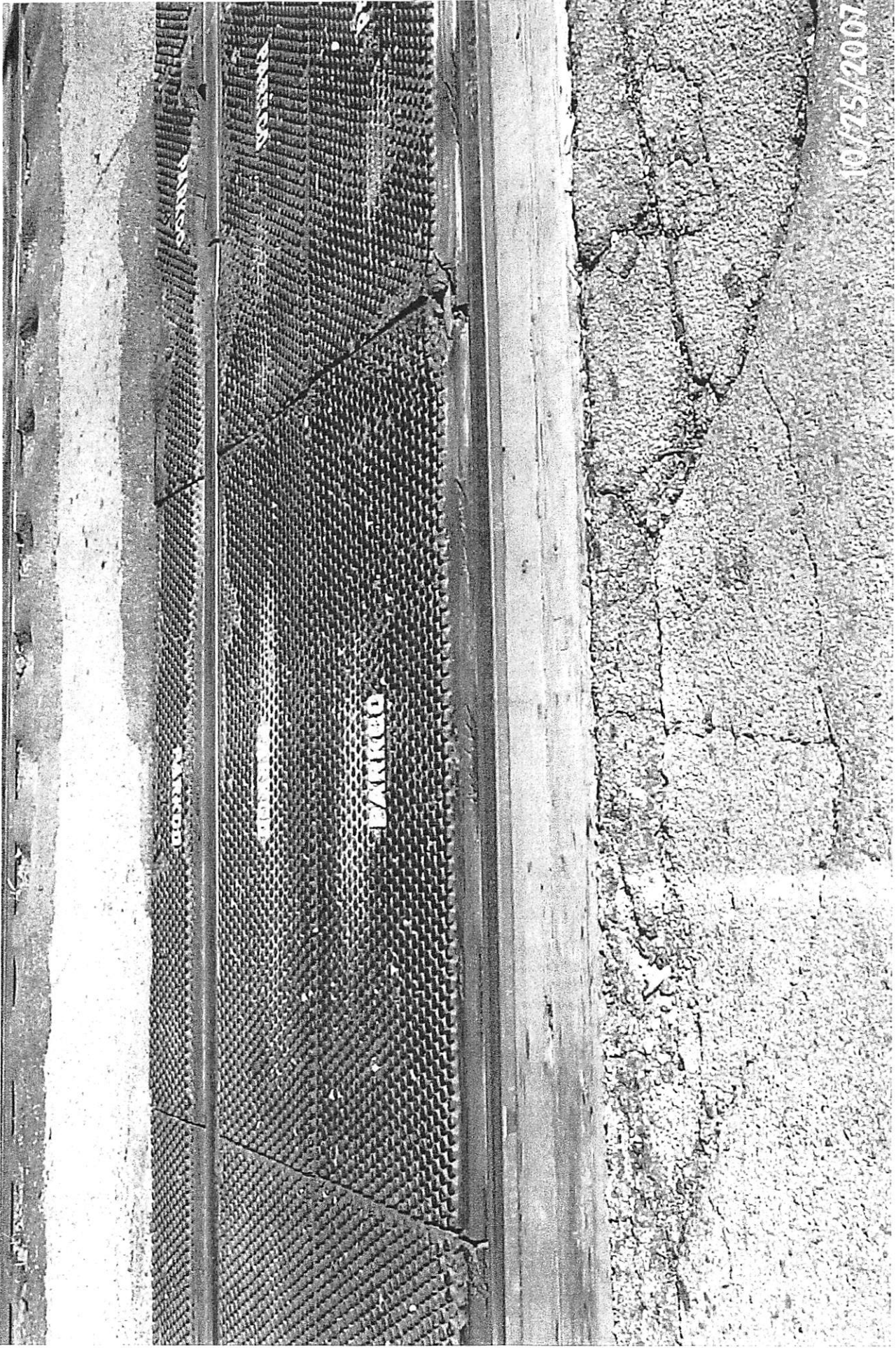


Picture taken by Brian Block on 10-25-07 of the UPRR At-Grade crossing at S 80 St. U.S DOT crossing No. 177247V. Standing south of tracks looking north



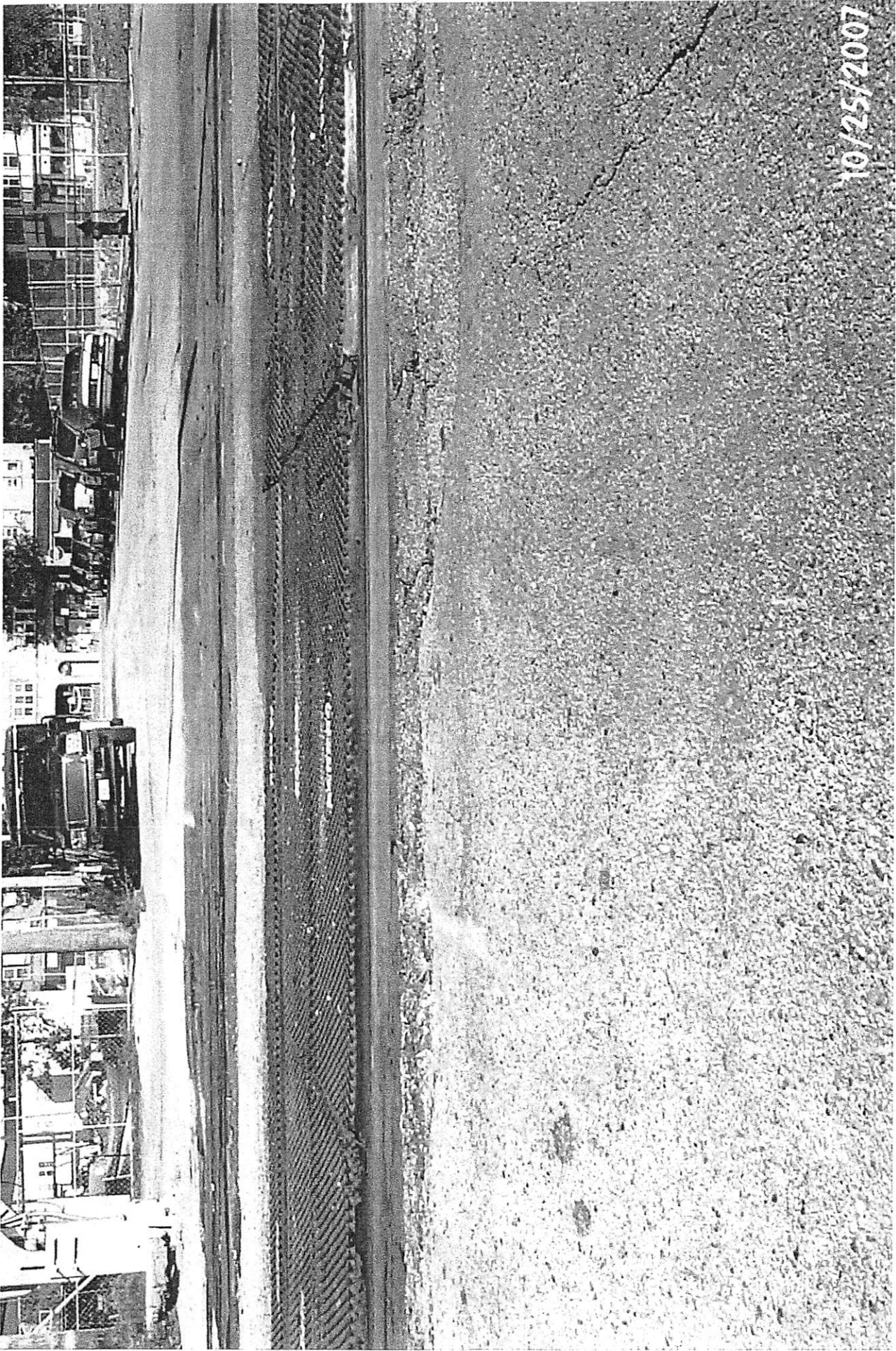


Picture taken by Brian Block on 10-25-07 of the UPRR At-Grade crossing at S 80 St. U.S DOT crossing No. 177247V. Standing south of tracks looking north



Picture taken by Brian Block on 10-25-07 of the UPRR At-Grade crossing at S 80 St. U.S DOT crossing No. 177247V. Standing south of tracks looking north





Picture taken by Brian Block on 10-25-07 of the UPRR At-Grade crossing at S 80 St. U.S DOT crossing No. 177247V. Standing south of tracks looking north





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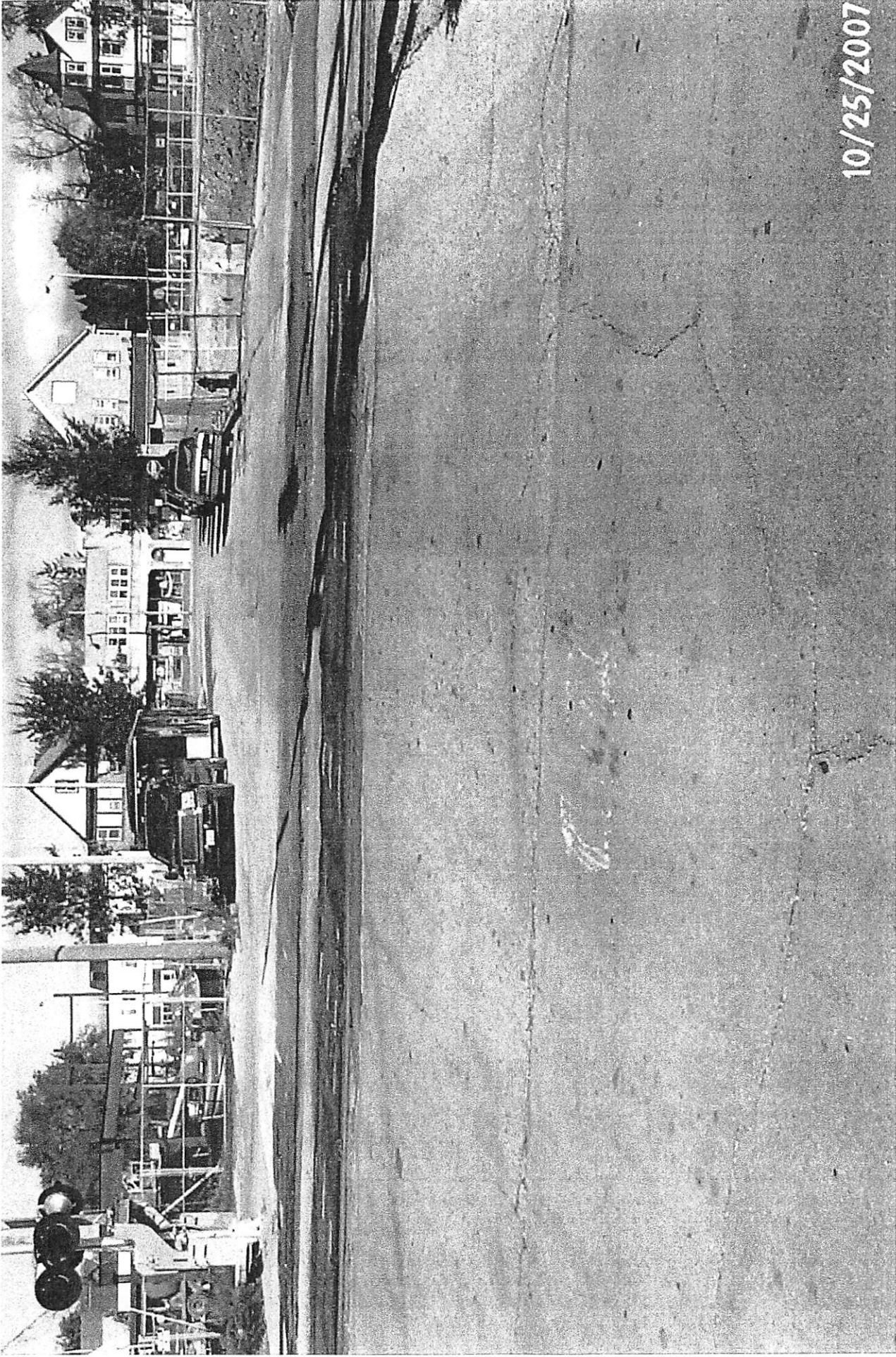


Picture taken by Brian Block on 10-25-07 of the UPRR At-Grade crossing at S 80 St. U.S DOT crossing No. 177247V. Standing south of tracks looking north



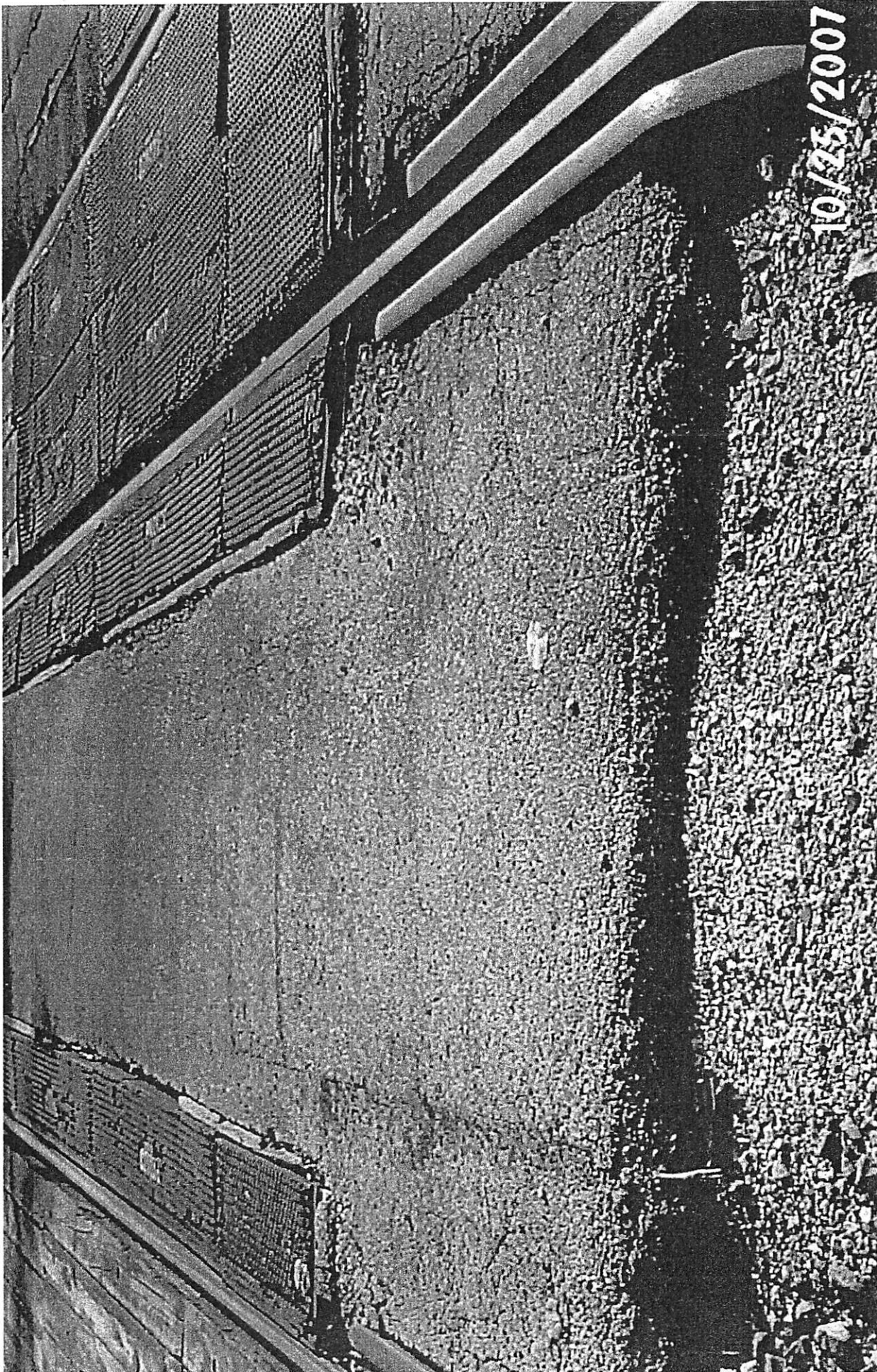


Picture taken by Brian Block on 10-25-07 of the UPRR At-Grade crossing at S 80 St. U.S DOT crossing No. 177247V. Standing south of tracks looking north



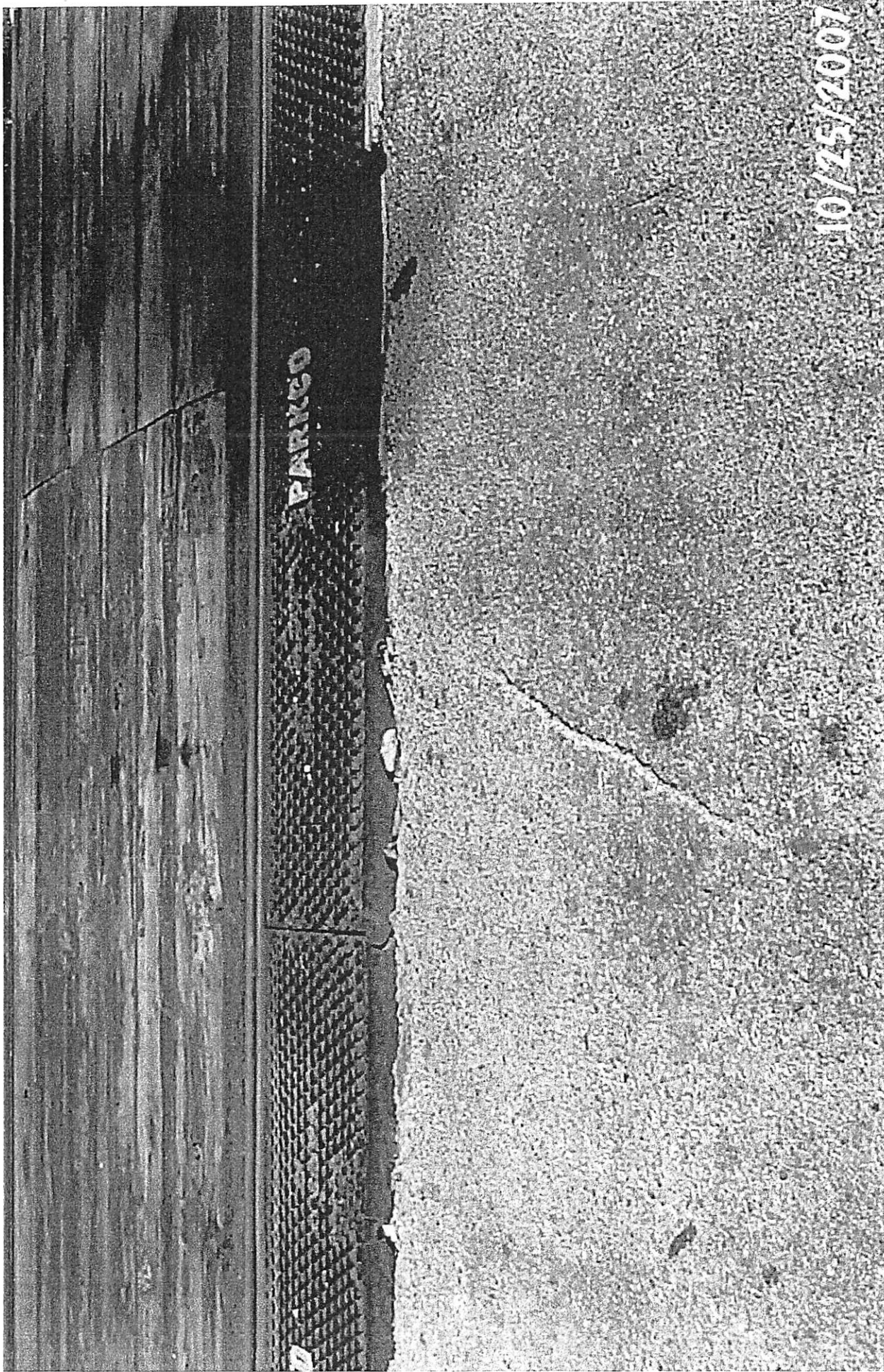
Picture taken by Brian Block on 10-25-07 of the UPRR At-Grade crossing at S 80 St. U.S DOT crossing No. 177247V. Standing south of tracks looking north



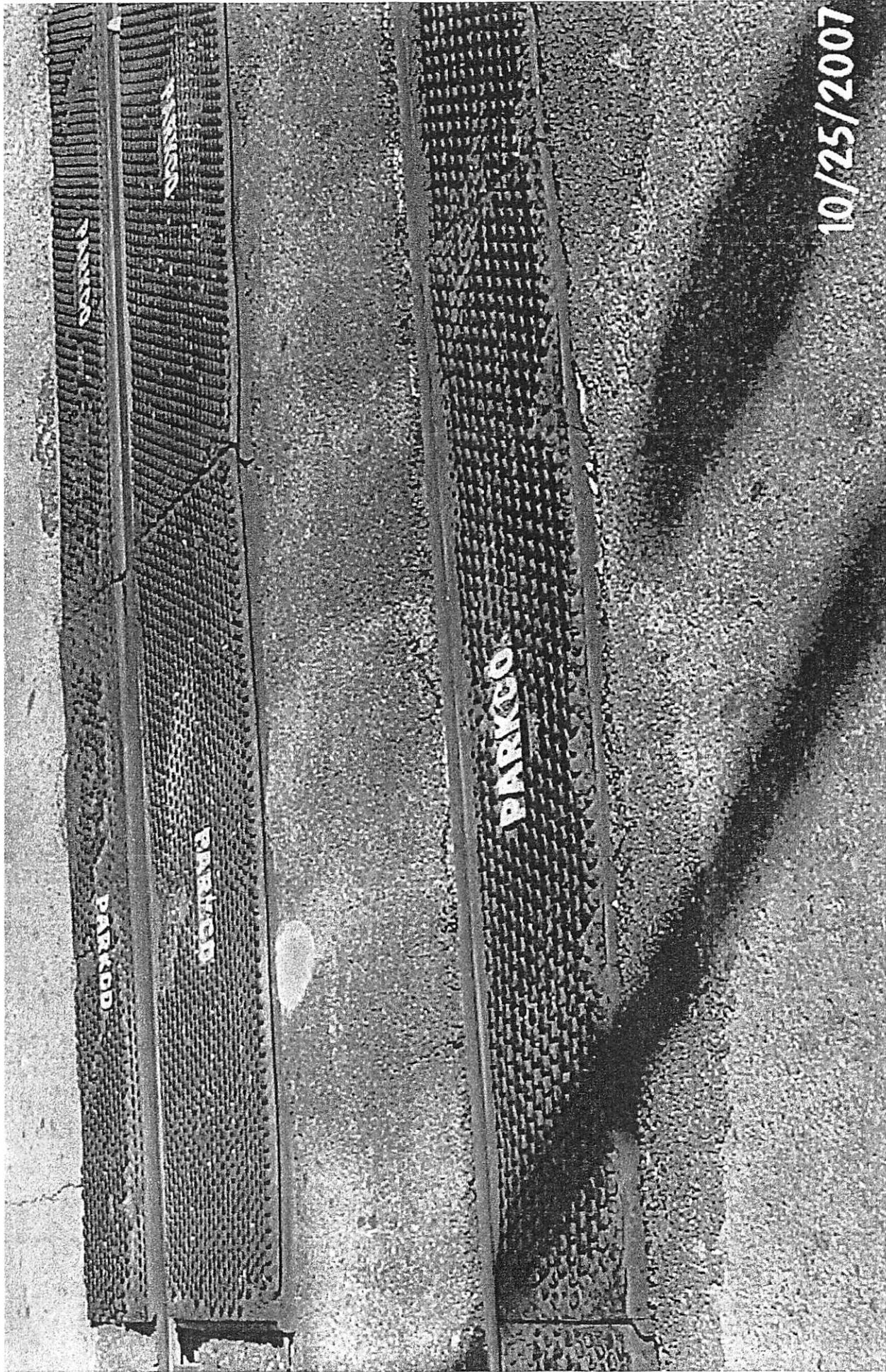


Block on 10-25-07 of the UPRR At-Grade crossing at S 82 St. U.S DOT crossing at the tracks looking east.





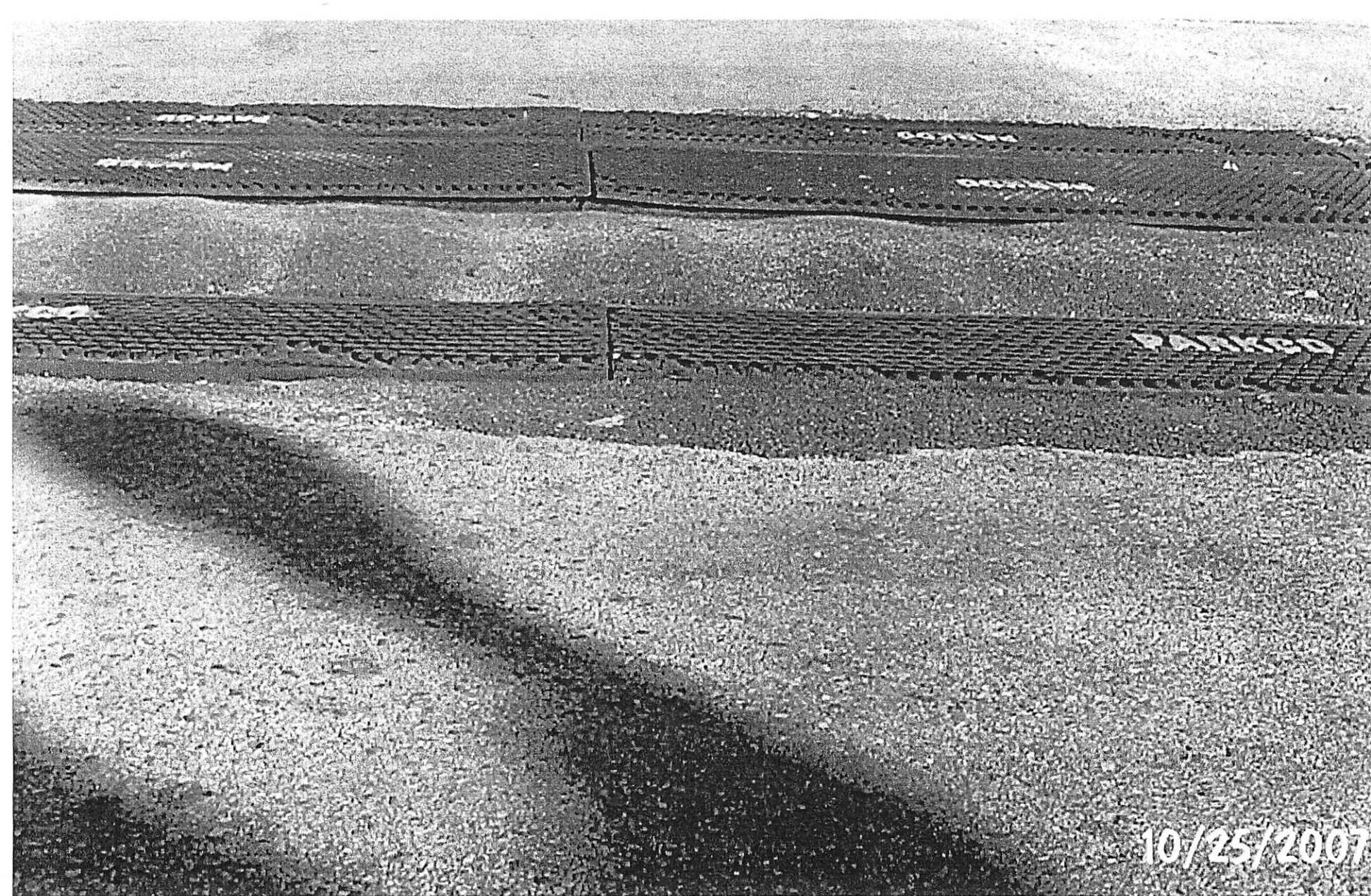
Block on 10-25-07 of the UPRR At-Grade crossing at S 82 St. U.S DOT crossing south of tracks looking north



10/25/2007

Block on 10-25-07 of the UPRR At-Grade crossing at S 82 St. U.S DOT crossing south of tracks looking north

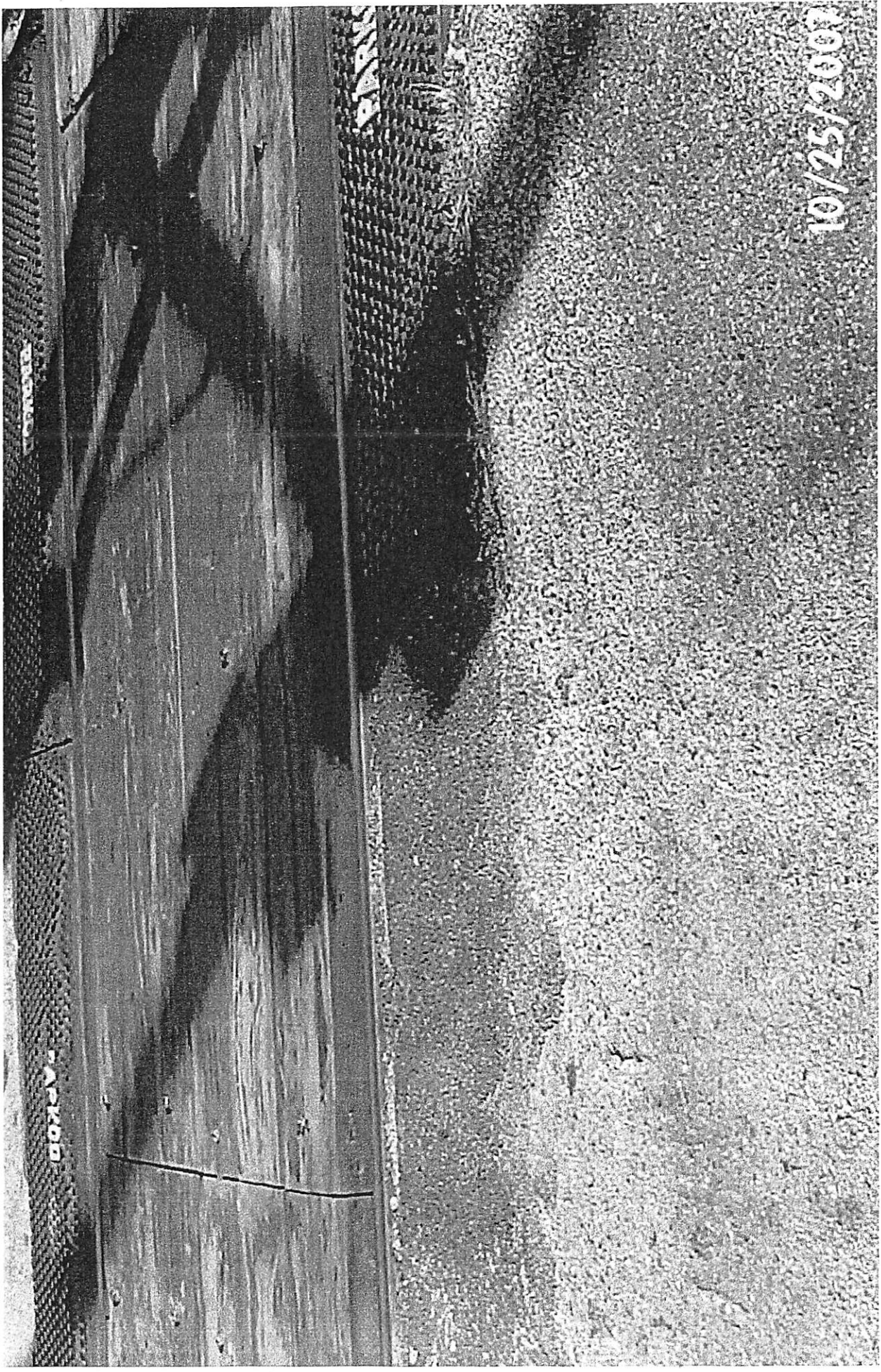




10/25/2007

Block on 10-25-07 of the UPRR At-Grade crossing at S 82 St. U.S DOT crossing south of tracks looking north



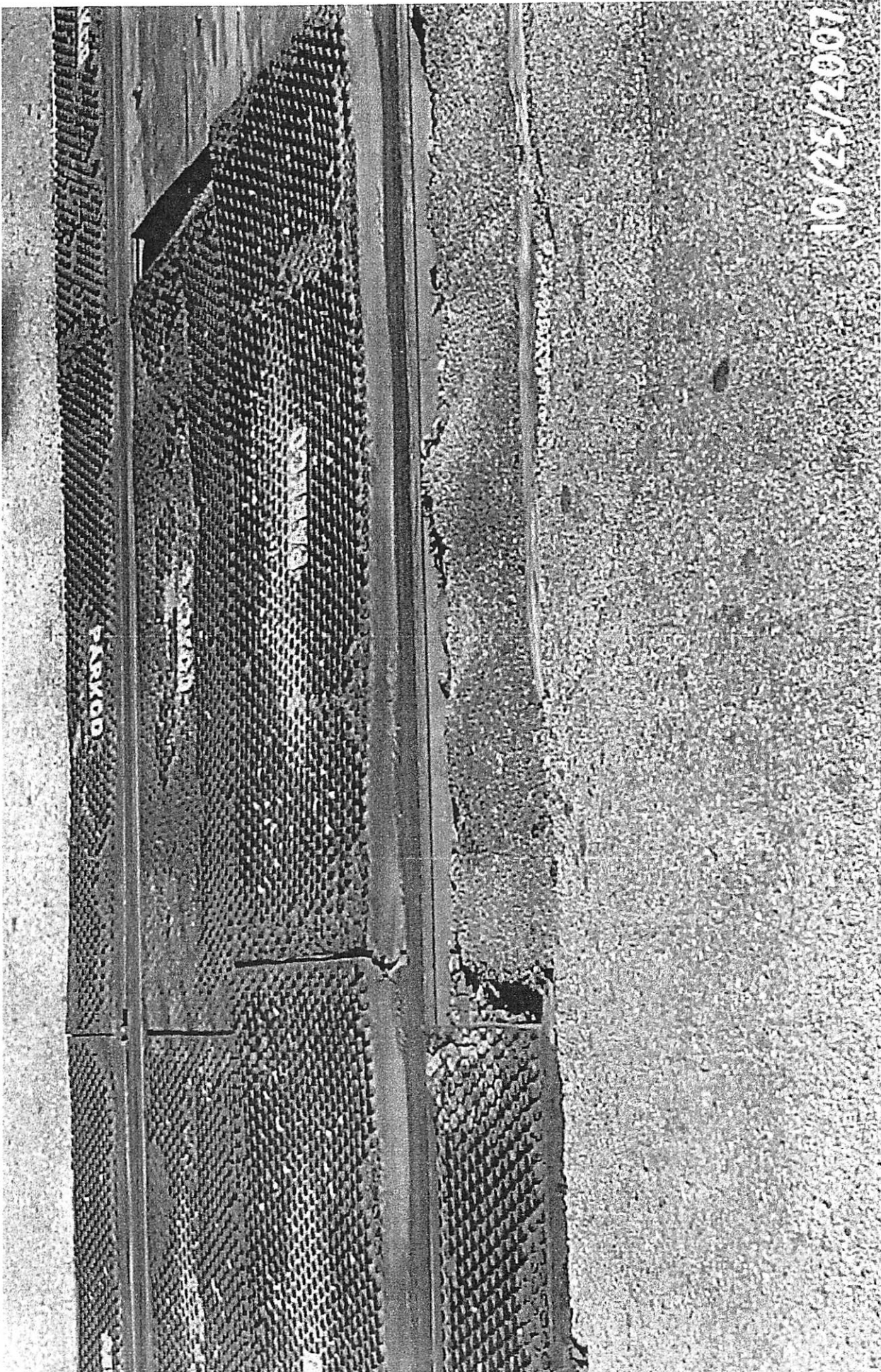


Block on 10-25-07 of the UPRR At-Grade crossing at S 82 St. U.S DOT crossing south of tracks looking north



Block on 10-25-07 of the UPRR At-Grade crossing at S 82 St. U.S DOT crossing south of tracks looking north





Block on 10-25-07 of the UPRR At-Grade crossing at S 82 St. U.S DOT crossing south of tracks looking north



Block on 10-25-07 of the UPRR At-Grade crossing at S 82 St. U.S DOT crossing south of tracks looking north



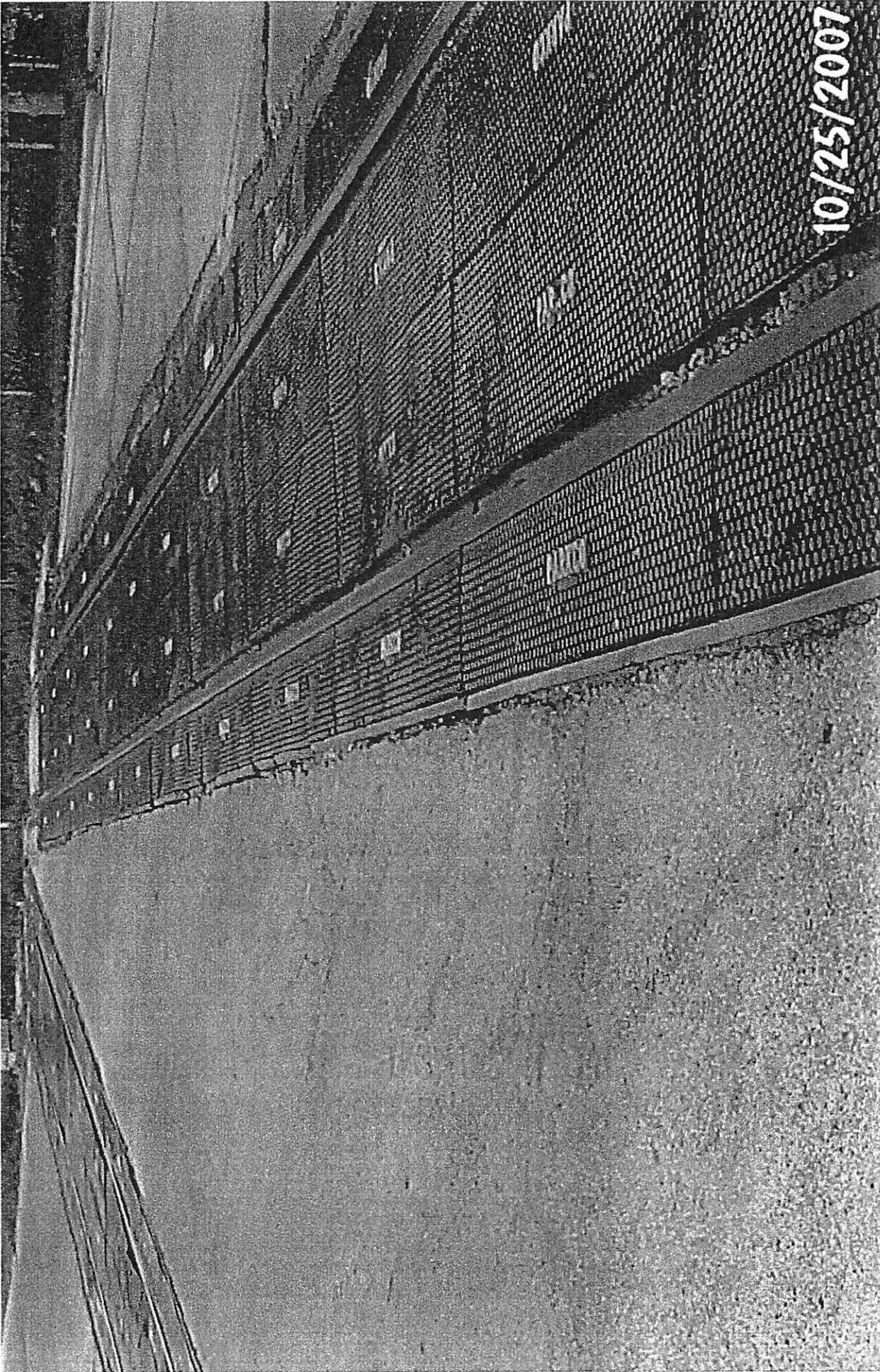


Block on 10-25-07 of the UPRR At-Grade crossing at S 82 St. U.S DOT crossing No. 10/25/2007  
th of tracks looking north

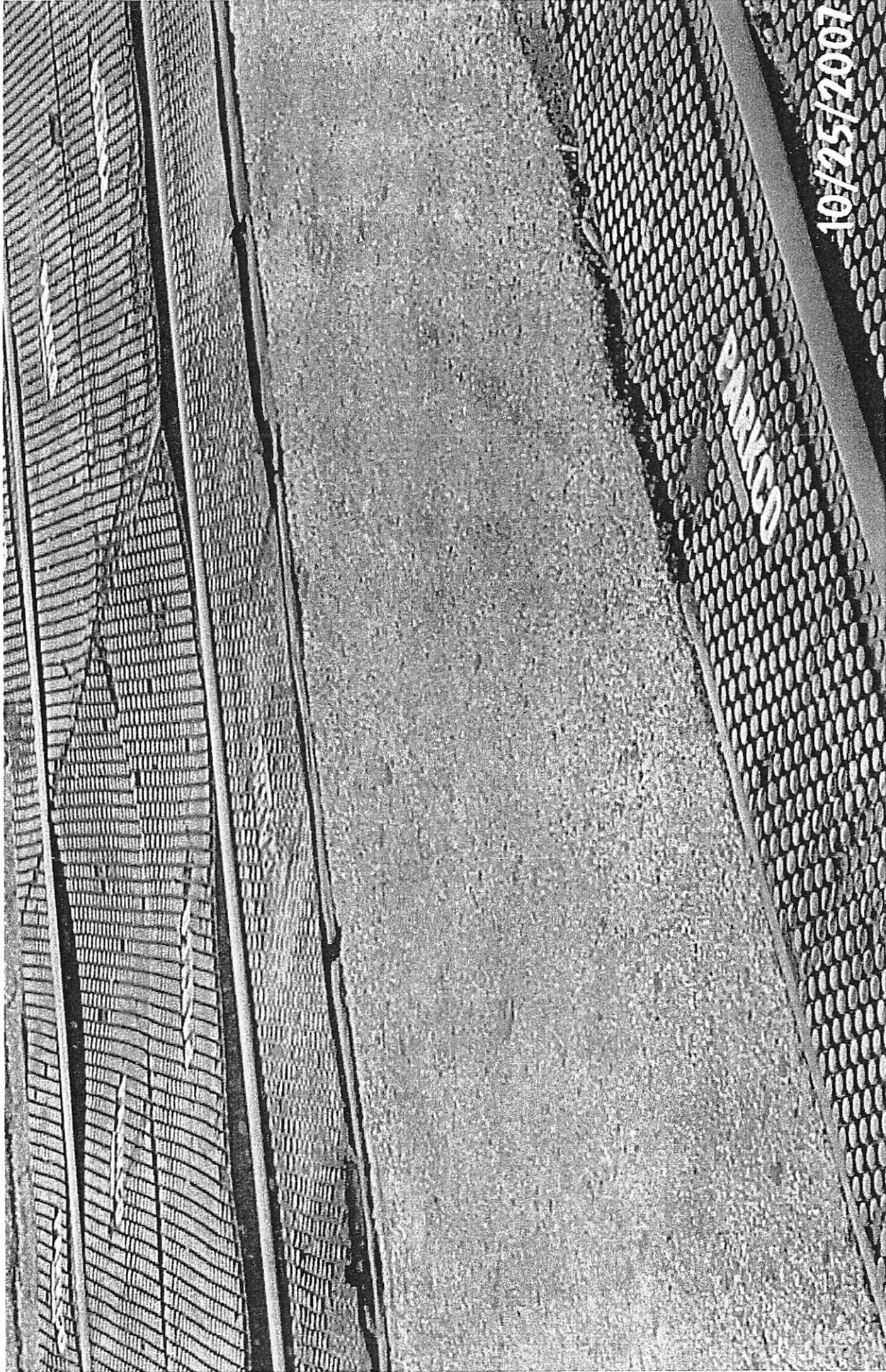


Block on 10-25-07 of the UPRR At-Grade crossing at S 82 St. U.S DOT crossing south of tracks looking north



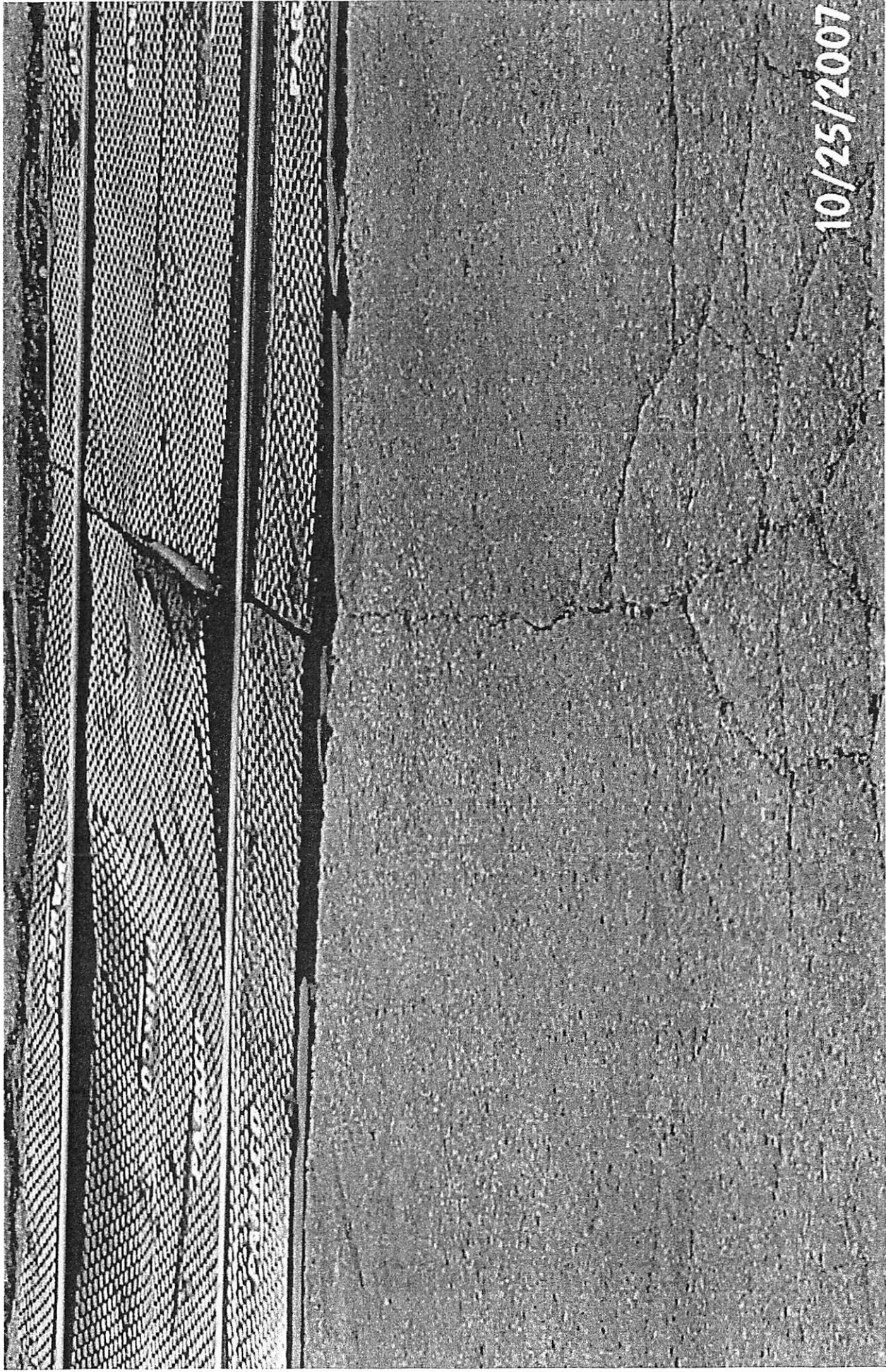


Block on 10-25-07 of the UPRR At-Grade crossing at W. Electric Ave. U.S DOT  
Standing at the tracks looking northwest.



Block on 10-25-07 of the UPRR At-Grade crossing at W. Electric Ave. U.S DOT  
Standing east of tracks looking southwest.





10/25/2007

Block on 10-25-07 of the UPRR At-Grade crossing at W. Electric Ave. U.S DOT  
Standing east of tracks looking southwest.