



ILLINOIS COMMERCE COMMISSION

August 11, 2005

The Department of Transportation of the State of Illinois, for and in behalf of
the People of the State of Illinois,
Petitioner,

Vs.

BNSF Railway Company, f/k/a Burlington Northern Santa Fe Railway
Company,
Respondent.

T05-0044

Petition for an Order authorizing Petitioner to acquire through eminent domain
from Respondent, BNSF, a permanent easement in Parcel No. 2190015PE
and a temporary easement in Parcel No. 2190015TE located in DeKalb
County, Illinois.

Mr. Stanley L. Morris
Quinn, Johnston, Henderson
& Pretorius, Chartered
205 South Fifth Street, Suite 900
Springfield, IL 62701

Dear Mr. Morris:

Receipt is acknowledged of the original and two (2) copies of the Petition filed August 9, 2005 in
the above matter.

**All future correspondence/pleadings should be filed with an original and two (2) copies
and addressed to: Mr. Dave Lazarides, Acting Director of Processing, Illinois Commerce
Commission, 527 East Capitol Avenue, Springfield, IL 62701 or you may file the original
electronically through E-docket if you have an account. To apply for an account, please log on to
www.icc.state.il.us and apply for an E-docket account.**

Processing and Information Section

KI

Cc: Mr. Victor A. Modeer, IDOT
Ms. Ellen Schanzle-Haskins, IDOT
Mr. Michael L. Sazdanoff, BNSF
Mr. W. Douglas Werner, BNSF
Mr. Mark Leemon, BNSF
Mr. William Lorence, DeKalb County

ORIGINAL



STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

THE DEPARTMENT OF TRANSPORTATION)
OF THE STATE OF ILLINOIS, for and in)
behalf of the People of the State of Illinois,)

Petitioner,)

vs.)

BNSF RAILWAY COMPANY, f/k/a)
BURLINGTON NORTHERN SANTA FE)
RAILWAY COMPANY,)

Respondent.)

No. TOS-0044

(Parcel 2190015PE and 2190015TE)

PETITION FOR APPROVAL TO TAKE PROPERTY

NOW COMES THE DEPARTMENT OF TRANSPORTATION OF THE STATE OF ILLINOIS, Petitioner, by LISA MADIGAN, ATTORNEY GENERAL and STANLEY L. MORRIS, Special Assistant Attorney General, and for its Petition for Approval to Take Property states:

1. Petitioner has engaged in the construction, operation and maintenance of FA Route 573 (U.S. Route 30), a State highway under the control and jurisdiction of Petitioner, in DeKalb County, Illinois, under and by virtue of the Illinois Highway Code (605 ILCS 5/2-101 through 5/2-220 and 5/4-101 through 5/4-511). The lands and premises hereinafter described and legally described as set out in Exhibits "A" and "B" attached hereto and incorporated by this reference, are required for Petitioner's reconstruction of non-Freeway FA Route 573, Section 116RS-7, Hinckley, DeKalb County, Illinois (hereafter the "Project").

DOCKETED
AUG 10 2005

2. Respondent, BNSF RAILWAY COMPANY, f/k/a BURLINGTON NORTHERN SANTA FE RAILWAY COMPANY (“BNSF”), is a rail carrier as defined in the Illinois Commercial Transportation Law (625 ILCS 5/18c-7101 et seq.), is engaged as a common carrier by railroad within Illinois and is subject to the jurisdiction of the Illinois Commerce Commission.

3. The land, rights, and other property hereinafter described are private property and the Respondent appears to own, have an interest in, or claim to have some interest therein.

4. The Project is a public work, is for public use and constitutes a public purpose, in DeKalb County, Illinois; it is in the public convenience and necessity that the Petitioner have and acquire a permanent easement in Parcel No. 2190015PE, more particularly described in Exhibit “A” attached hereto, and a temporary easement in Parcel No. 2190015TE, more particularly described in Exhibit “B” attached hereto, for the lesser of three years from the date Petitioner takes possession of said property or until the completion of construction.

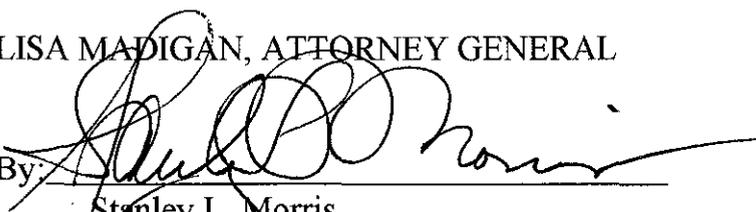
5. The compensation to be paid by the Petitioner to the Respondent for these parcels or the interest therein or the form of conveyance cannot be agreed upon between the Petitioner and the Respondent and the Petitioner, therefore, is authorized, subject to the initial approval of the Illinois Commerce Commission, to proceed to acquire said lands, rights or other property through the exercise of the right of eminent domain under the Eminent Domain Laws of Illinois.

WHEREFORE, Petitioner prays the Illinois Commerce Commission enter an Order authorizing Petitioner to proceed with an action in eminent domain to acquire from

Respondent, BNSF, a permanent easement in Parcel No. 2190015PE more particularly described in attached Exhibit "A", and a temporary easement in Parcel No. 2190015TE, more particularly described in attached Exhibit "B", for the less of three years from the date Petitioner takes possession of said property or until completion of construction, all in accordance with Article VII (735 ILCS 5/7-101 through 5/7-129) of the Illinois Code of Civil Procedure.

THE DEPARTMENT OF TRANSPORTATION,
STATE OF ILLINOIS, Petitioner

LISA MADIGAN, ATTORNEY GENERAL

By: 

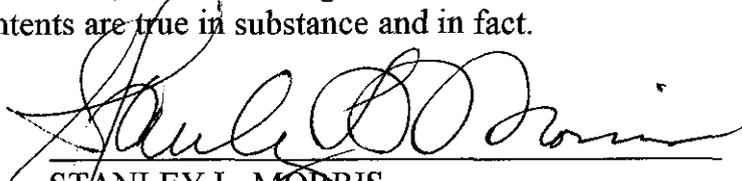
Stanley L. Morris

Special Assistant Attorney General

Stanley L. Morris
Special Assistant Attorney General
205 South Fifth Street, Suite 900
Springfield, IL 62701
Telephone: (217) 753-1133

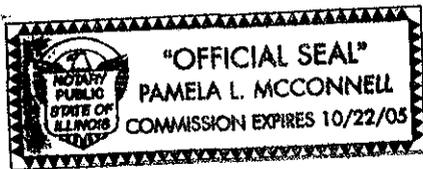
STATE OF ILLINOIS)
)
) SS
COUNTY OF SANGAMON)

I, STANLEY L. MORRIS, of lawful age and being first duly sworn, depose and say that I am a Special Assistant Attorney General for the State of Illinois, that I have read the above and foregoing Petition by me subscribed, have knowledge of the contents thereof and that on information and belief said contents are true in substance and in fact.



STANLEY L. MORRIS
Special Assistant Attorney General

Subscribed and sworn to before me, a Notary Public, this 9th day of August, 2005.





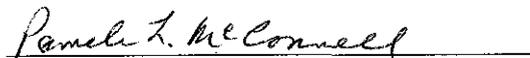
Notary Public

PROOF OF SERVICE

The undersigned certifies that on August 9, 2005, a copy of the foregoing document was deposited in the U.S. Mail, with postage prepaid, at Springfield, Illinois, plainly addressed to:

BNSF Railway Company,
f/k/a Burlington Northern Santa Fe Railway Company
80 44th Avenue N.E.
Minneapolis, MN 55421

BNSF Railway Company,
f/k/a Burlington Northern Santa Fe Railway Company
c/o Michael Szdanoff, Registered Agent
Kenneth J. Wysoglad & Associates
118 South Clinton Street, Suite 700
Chicago, IL 60661



Parcel 015PE,12

P-30/LAL-05100/588R

FA Route 573 (US 30)
Section 116RS-7
Parcel 015PE

**PERMANENT
EASEMENT**



BNSF Railway Company
f/k/a The Burlington
Northern and Santa Fe
Railway Company,
a Delaware Corporation

A part of the right-of-way of the Burlington Northern Santa Fe Railway Company in the West Half of the Southwest Quarter of Section 14 and in the Southeast Quarter of Section 15, all in Township 38 North, Range 5 East of the Third Principal Meridian, DeKalb County, State of Illinois, described as follows:

TRACT ONE

Commencing at the southeast corner of Block 2 as designated upon the plat of Wagner and Miller's Second Addition to Hinckley, the Plat of said Addition is recorded in Book B of Plats at Page 74 in the Recorder's Office of DeKalb County; thence South 73 degrees 29 minutes 52 seconds West (Bearings assumed for description purposes only), 391.98 feet on the southerly line of said Block 2, to the Point of Beginning.

From the Point of Beginning thence South 0 degrees 00 minutes 00 seconds West, 104.30 feet to the southerly right-of-way line of the Burlington Northern Santa Fe Railway; thence South 73 degrees 29 minutes 52 seconds West, 20.86 feet on said southerly right-of-way line; thence North 0 degrees 00 minutes 00 seconds East, 104.30 feet, to the southerly line of said Block 2; thence North 73 degrees 29 minutes 52 seconds East, 20.86 feet on said southerly line, to the Point of Beginning, containing 0.048 acre, more or less.

TRACT TWO

Beginning at the northwest corner of Block 1 as designated upon the Plat of Oak Knoll Addition to Hinckley, the plat of said Addition is recorded in Book D of Plats at Page 37 in the Recorder's Office of DeKalb County; thence westerly 70.00 feet on a curve to the left, having a radius of 2,814.79 feet, a central angle of 1 degrees 25 minutes 30 seconds and the long chord of said curve bears South 87 degrees 52 minutes 57 seconds West, (Bearings assumed for description purposes only), 70.00 feet to the easterly line of Outlot A in said Oak Knoll Addition; thence North 1 degrees 43 minutes 38 seconds West, 44.84 feet to the southerly line of premises conveyed to Karen J. Sparks from The Burlington Northern and Santa Fe Railway Company by Quit Claim Deed recorded January 14, 2004 as Document No. 2004000878 in said Recorder's Office; thence North 83 degrees 29 minutes 28 seconds East, 34.31 feet on said southerly line, to the easterly line of said premises so conveyed; thence North 1 degrees 24 minutes 53 seconds West, 39.14 feet on said easterly line, to the southerly right-of-way line of a public highway designated FA Route 573 (US 30); thence North 88 degrees 29 minutes 14 seconds East, 313.64 feet on said southerly right-of-way line; thence South 86 degrees 01 minutes 51 seconds East, 70.13 feet on said southerly right-of-way line; thence South 86

Parcel 015PE,13

degrees 42 minutes 58 seconds West, 95.77 feet; thence South 88 degrees 25 minutes 45 seconds West, 230.00 feet; thence South 74 degrees 23 minutes 37 seconds West, 420.62 feet; thence South 0 degrees 03 minutes 40 seconds East, 71.34 feet, to the Point of Beginning, containing 0.179 acre, more or less.

TRACT THREE

Commencing at the northwest corner of Lot 2 as designated upon the plat of Alice Large Subdivision, the Plat of said Subdivision is recorded in Book L of Plats at Page 16 in the Recorder's Office of DeKalb County; thence South 1 degrees 31 minutes 43 seconds East (Bearings assumed for description purposes only), 223.04 feet on the west line of said subdivision, to the northerly right-of-way line of the Burlington Northern Santa Fe Railway; thence North 86 degrees 01 minutes 47 seconds West, 20.17 feet on said northerly right-of-way line, to the Point of Beginning.

From the Point of Beginning thence South 2 degrees 01 minutes 43 seconds East, 38.72 feet; thence South 0 degrees 00 minutes 00 seconds East, 61.64 feet to the southerly right-of-way line of said Burlington Northern Santa Fe Railway; thence North 86 degrees 01 minutes 47 seconds West, 20.05 feet on said southerly right-of-way line; thence North 0 degrees 00 minutes 00 seconds West, 59.90 feet; thence North 2 degrees 01 minutes 43 seconds West, 40.47 feet, to said northerly right-of-way line; thence South 86 degrees 01 minutes 47 seconds East, 20.11 feet on said northerly right-of-way line, to the Point of Beginning, containing 0.046 acre, more or less.

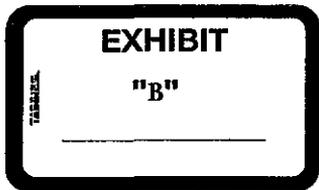
TRACT FOUR

Commencing at the southwest corner of Lot 6 in Block 3 as designated upon the plat of Wagner and Miller's Second Addition to Hinckley, the Plat of said Addition is recorded in Book B of Plats at Page 74 in the Recorder's Office of DeKalb County; thence North 73 degrees 29 minutes 52 seconds East (Bearings assumed for description purposes only), 394.58 feet on the southerly line of said Block 3 and the northerly right-of-way line of the Burlington Northern Santa Fe Railway, to the Point of Beginning.

From the Point of Beginning thence North 73 degrees 29 minutes 52 seconds East, 20.87 feet on said northerly right-of-way line; thence South 0 degrees 00 minutes 00 seconds East, 104.30 feet to the southerly right-of-way line of the Burlington Northern Santa Fe Railway; thence South 73 degrees 29 minutes 52 seconds West, 20.87 feet on said southerly right-of-way line; thence North 0 degrees 00 minutes 00 seconds West, 104.30 feet, to the Point of Beginning, containing 0.048 acre, more or less.

The above description affects Tax Code Nos. 15-14-501-001, 15-14-501-002 and 15-14-501-003.

Parcel 015TE,17



P-30/LAL-05101/588R

FA Route 573 (US 30)
Section 116RS-7
DeKalb County

EASEMENT

BNSF Railway Company
f/k/a The Burlington
Northern and Santa Fe
Railway Company,
a Delaware Corporation

A part of the right-of-way of the Burlington Northern Santa Fe Railway Company in the West Half of the Southwest Quarter of Section 14 and in the Southeast Quarter of Section 15, all in Township 38 North, Range 5 East of the Third Principal Meridian, DeKalb County, State of Illinois, described as follows:

TRACT ONE

Commencing at the southeast corner of Block 2 as designated upon the Plat of Wagner and Miller's Second Addition to Hinckley, the Plat of said Addition is recorded in Book B of Plats at Page 74 in the Recorder's Office of DeKalb County; thence South 73 degrees 29 minutes 52 seconds West (Bearings assumed for description purposes only), 412.84 feet on the southerly line of said Block 2, to the Point of Beginning.

From the Point of Beginning thence South 0 degrees 00 minutes 00 seconds West, 104.30 feet to the southerly right-of-way line of the Burlington Northern Santa Fe Railway; thence South 73 degrees 29 minutes 52 seconds West, 10.43 feet on said southerly right-of-way line; thence North 00 degrees 00 minutes 00 seconds East, 104.30 feet to the southerly line of said Block 2; thence North 73 degrees 29 minutes 52 seconds East, 10.43 feet on said southerly line, to the Point of Beginning, containing 0.024 acre, more or less.

TRACT TWO

Commencing at the southeast corner Block 2 designated upon the Plat of Wagner and Miller's Second Addition to Hinckley, the Plat of said Addition is recorded in Book B of Plats at Page 74 in the Recorder's Office of DeKalb County; thence South 73 degrees 29 minutes 52 seconds West (Bearings assumed for description purposes only), 381.55 feet on the southerly line of said Block 2, to the Point of Beginning.

From the Point of Beginning thence South 0 degrees 00 minutes 00 seconds West, 104.30 feet, to the southerly right-of-way line of the Burlington Northern Santa Fe Railway; thence South 73 degrees 29 minutes 52 seconds West, 10.43 feet on said southerly right-of-way; thence North 0 degrees 00 minutes 00 seconds East, 104.30 feet, to the southerly line of said Block 2; thence North 73 degrees 29 minutes 52 seconds East, 10.43 feet on said southerly line, to the Point of Beginning, containing 0.024 acre, more or less.

TRACT THREE

Commencing at the northeast corner of Block 12 as designated upon the Plat of the subdivision of the Unnumbered Block north of Depot in the Village of Hinckley, the Plat of said Unnumbered Block is recorded in Book B of Plats at Page 22 in the Recorder's Office of DeKalb County; thence westerly on the southerly line of said Block 12, 69.64 feet on a curve to the left, having a radius of 2,914.79 feet, a central angle of 1 degrees 22 minutes 08 seconds and the long chord of said curve bears South 79 degrees 11 minutes 58 seconds West, 69.64 feet to the westerly line of premises conveyed to Karen J. Sparks from the Burlington Northern and Santa Fe Railway Company by Quit Deed recorded January 14, 2004 as Document No. 2004000878 in said Recorder's Office, and to the Point of Beginning.

From the Point of Beginning thence South 8 degrees 52 minutes 36 seconds East, 38.48 feet on the westerly line of said premises so conveyed; thence North 62 degrees 57 minutes 36 seconds West, 37.61 feet; thence North 53 degrees 03 minutes 02 seconds East, 31.54 feet; thence North 1 degrees 38 minutes 13 seconds West, 1.48 feet, to the southerly line of said Block 12; thence easterly on said southerly line 2.44 feet on a curve to the right, having a radius of 2,914.79 feet, a central angle of 0 degrees 02 minutes 53 seconds and the long chord of said curve bears North 78 degrees 29 minutes 24 seconds East, 2.44 feet, to a point of Beginning, containing 0.013 acre, more or less.

TRACT FOUR

Commencing at the northwest corner of Block 1 as designated upon the Plat of Oak Knoll Addition to Hinckley, the Plat of said Addition is recorded in Book D of Plats at Page 37 in the Recorder's Office of DeKalb County; thence westerly 70.00 feet on a curve to the left, having a radius of 2,814.79 feet, a central angle of 1 degrees 25 minutes 30 seconds and the long chord of said curve bears South 87 degrees 52 minutes 57 seconds West, (Bearings assumed for description purposes only), 70.00 feet to the easterly line of Outlot A in said Oak Knoll Addition, and to the Point of Beginning.

From the Point of Beginning thence South 1 degree 43 minutes 38 seconds East, 13.11 feet on said easterly line; thence South 88 degrees 16 minutes 21 seconds West, 10.12 feet; thence North 11 degrees 15 minutes 14 seconds West, 30.08 feet; thence South 84 degrees 36 minutes 54 seconds West, 293.63 feet; thence South 66 degrees 37 minutes 40 seconds West, 53.85 feet; thence North 62 degrees 57 minutes 36 seconds West, 44.91 feet to the southerly line of premises conveyed to Karen J. Sparks from The Burlington Northern and Santa Fe Railway Company by Quit Claim Deed recorded January 14, 2004 as Document No. 2004000878 in said Recorder's Office; thence easterly on the southerly line of said premises so conveyed 118.51 feet on a curve to the right, having a radius of 5,757.58 feet, a central angle of 0 degrees 59 minutes 42

Parcel 015TE,19

seconds and the long chord of said curve bears North 82 degrees 03 minutes 28 seconds East, 118.51 feet; thence North 7 degrees 21 minutes 10 seconds West, 9.00 feet on said southerly line; thence North 83 degrees 29 minutes 28 seconds East, 281.61 feet on said southerly line; thence South 1 degrees 43 minutes 38 seconds East, 44.84 feet, to the Point of Beginning, containing 0.208 acre, more or less.

TRACT FIVE

Beginning at the northwest corner of Block 1 as designated upon the Plat of Oak Knoll Addition to Hinckley, the Plat of said Addition is recorded in Book D of Plats at Page 37 in the Recorder's Office of DeKalb County; thence North 0 degrees 03 minutes 40 seconds West (Bearings assumed for description purposes only), 71.34 feet; thence North 74 degrees 23 minutes 37 seconds East, 20.62 feet; thence North 88 degrees 25 minutes 45 seconds East, 230.00 feet; thence North 86 degrees 42 minutes 58 seconds East, 95.77 feet to the southerly right-of-way line of a public highway designated FA Route 573 (US 30); thence South 86 degrees 01 minutes 51 seconds East, 128.85 feet on said southerly right-of-way line, thence South 86 degrees 01 minutes 47 seconds East, 77.70 feet on said southerly right-of-way line; thence North 89 degrees 44 minutes 45 seconds West, 179.04 feet; thence South 85 degrees 11 minutes 24 seconds West, 152.61 feet; thence South 88 degrees 28 minutes 01 seconds West, 207.15 feet; thence South 2 degrees 21 minutes 31 seconds West, 70.18 feet; thence South 88 degrees 16 minutes 21 seconds West, 9.88 feet to the west line of said Block 1; thence North 1 degrees 43 minutes 38 seconds West, 13.58 feet on said west line, to the Point of Beginning, containing 0.201 acre, more or less.

TRACT SIX

Commencing at the northwest corner of Lot 2 as designated upon the plat of Alice Large Subdivision, the Plat of said Subdivision is recorded in Book L of Plats at Page 16 in the Recorder's Office of DeKalb County; thence South 1 degrees 31 minutes 43 seconds East (Bearings assumed for description purposes only), 223.04 feet on the west line of said subdivision, to the northerly right-of-way line of the Burlington Northern Santa Fe Railway; thence North 86 degrees 01 minutes 47 seconds West, 460.39 feet on said northerly right-of-way line, to the Point of Beginning.

From the Point of Beginning thence South 2 degrees 01 minutes 43 seconds East, 40.47 feet; thence South 0 degrees 00 minutes 00 seconds East, 59.90 feet to the southerly right-of-way line of said Burlington Northern Santa Fe Railway; thence North 86 degrees 01 minutes 47 seconds West, 9.65 feet on said southerly right-of-way line; thence North 0 degrees 21 minutes 18 seconds West, 58.85 feet; thence North 2 degrees 01 minutes 43 seconds West, 41.54 feet, to said northerly right-of-way line; thence South 86 degrees 01 minutes 47 seconds East, 10.06 feet on said northerly right-of-way line, to the Point of Beginning, containing 0.023 acre, more or less.

Parcel 015TE,21

From the Point of Beginning thence North 73 degrees 29 minutes 52 seconds East, 10.43 feet on said northerly right-of-way line; thence South 0 degrees 00 minutes 00 seconds East, 104.30 feet, to the southerly right-of-way line of said Burlington Northern Santa Fe Railway; thence South 73 degrees 29 minutes 52 seconds West, 10.43 feet on said southerly right-of-way; thence North 0 degrees 00 minutes 00 seconds West, 104.30 feet, to the Point of Beginning, containing 0.024 acre, more or less.

It is not the intent of this instrument to encumber any building or structure lying within the easement area.