

ORIGINAL

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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. :  
:

T05-0045

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

Respondent. :  
:

Petition for approval of the taking or damaging of certain :  
properties in McDonough County, Illinois by exercising :  
the right of eminent domain. Parcel No. 409U226TE :

ILLINOIS COMMERCE  
COMMISSION  
2005 AUG 24 P 2:44  
TRANSPORTATION DIV

**PETITIONER'S MOTION FOR LEAVE TO FILE**  
**AMENDED 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 Motion for Leave to File an  
Amended Petition for Approval to Take Property, states:

1. This motion is filed pursuant to Section 200.140 of the Rules of Practice of the  
Illinois Commerce Commission.

2. On August 15, 2005, the Petitioner filed its Petition for Approval to Take  
Property and inadvertently represented that FAP Route 315 was a "non-freeway" route. In  
fact, FAP Route 315 has been designated as a freeway.

DOCKETED

AUG 25 2005

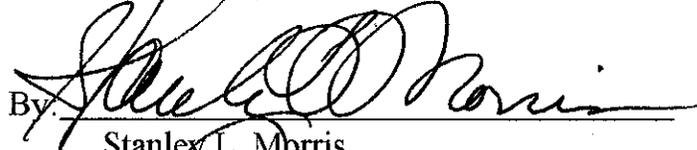
3. Granting Petitioner's Motion for Leave to File an Amended Petition will not prejudice the rights of any party.

4. A copy of the Amended Petition for Approval to Take Property which Petitioner seeks to file is attached hereto as Exhibit "A" and fully incorporated by this reference.

WHEREFORE, Petitioner prays that its motion be granted.

THE DEPARTMENT OF TRANSPORTATION,  
STATE OF ILLINOIS, Petitioner

LISA MADIGAN, ATTORNEY GENERAL

By: 

Stanley L. Morris  
Special Assistant Attorney General

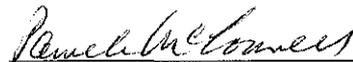
Stanley L. Morris  
Special Assistant Attorney General  
205 South Fifth Street, Suite 900  
Springfield, IL 62701  
Telephone: (217) 753-1133

**PROOF OF SERVICE**

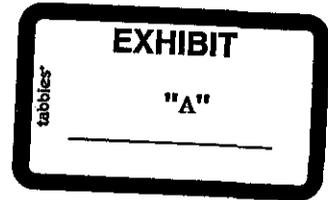
The undersigned certifies that on August 24, 2005, a copy of the foregoing document was deposited in the U.S. Mail, with postage prepaid, at Springfield, Illinois, plainly addressed to:

Burlington Northern & Santa Fe Railway Company  
c/o Stanbach Company  
Attn: Yvonne Worsham  
3017 Lou Menk Drive, Suite 100  
Ft. Worth, TX 76131

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

  
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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. : T05-0045

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

Respondent. :

Petition for approval of the taking or damaging of certain :  
properties in McDonough County, Illinois by exercising :  
the right of eminent domain. Parcel No. 409U226TE :

**AMENDED 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, having received leave to file and for its  
Amended Petition for Approval to Take Property states:

1. Petitioner has engaged in the construction, operation and maintenance of FAP  
Route 315 (Ill. Route 336), a State highway under the control and jurisdiction of Petitioner,  
in McDonough 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 Exhibit "A" attached hereto and incorporated  
by this reference, are required for Petitioner's construction of FAP Route 315, Section 55-2,  
McDonough County, Illinois (hereafter the "Project").

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 McDonough County, Illinois; it is in the public convenience and necessity that the Petitioner have and acquire a temporary easement in Parcel No. 409U226TE, more particularly described in Exhibit "A attached hereto, for the lesser of three years from the date Petitioner takes possession of said property or until the completion of construction. Said parcel is located along U.S. Route 136 approximately 3/4 mile west of Tennessee, Illinois.

5. Pursuant to Article VIII of the Illinois Highway Code (605 ILCS 5/8-10125/8-109), Petitioner did on September 4, 2004, designate and establish FAP Route 315 (Illinois Route 336) beginning at the intersection of U.S. Route 136 and East 225th Street approximately 1-1/2 miles west of Tennessee, Illinois, and extending easterly and northerly to a point on U.S. Route 136 approximately 1-3/4 miles west of Macomb, Illinois, as a freeway and recorded said designation on August 23, 2005; the parcels herein described abut upon and are adjacent to said FAP Route 315 so declared to be a freeway.

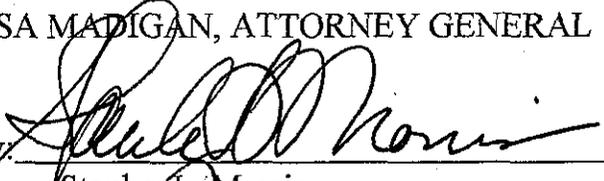
6. The compensation to be paid by the Petitioner to the Respondent for these

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 temporary easement in Parcel No. 409U226TE more particularly described in attached Exhibit "A", for the lesser of three years from the date Petitioner takes possession of said property or until completion of construction, 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

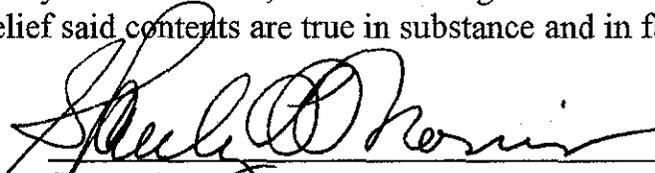
LISA MADIGAN, ATTORNEY GENERAL

By:   
Stanley L. Morris  
Special Assistant Attorney General

Stanley L. Morris  
Special Assistant Attorney General  
205 South Fifth Street, Suite 900  
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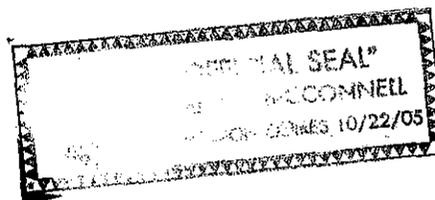
STATE OF ILLINOIS            )  
  )  
COUNTY OF SANGAMON        )        SS

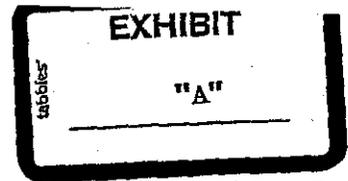
I, STANLEY L. MORRIS, of lawful age and being first duly sworn, depose and say that I am a Special Assistant Attorney General for the State of Illinois, that I have read the above and foregoing Amended Petition by me subscribed, have knowledge of the contents thereof and that on information and belief 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 24<sup>th</sup> day of August, 2005.

  
\_\_\_\_\_  
Notary Public





TRACT ONE

A part of the Southeast Quarter of Section 4, Township 5 North, Range 3 West of the Fourth Principal Meridian, McDonough County, Illinois, described as follows:

Beginning at a point on the southerly right-of-way line of Burlington Northern & Santa Fe Railroad, said point being 601.68 feet radially distance westerly from the proposed centerline of FAP Route 315 at station 551+90.07; thence southwesterly along said southerly right-of-way line, 1,857.00 feet to a point being 2,347.56 feet normally distance westerly from said centerline station 545+29.06; thence northwesterly to the northerly right-of-way line of said Railroad, said point being 2,382.11 feet normally distance westerly from said centerline 546+22.81; thence northeasterly along said northerly right-of-way line, 1,857.00 feet to a point being 632.68 feet radially distance westerly from said centerline station 552+93.49; thence 100.00 feet to the Point of Beginning, containing 185,700 square feet, or 4.263 acres, more or less.

TRACT TWO

A part of the Southeast Quarter of Section 4, Township 5 North, Range 3 West of the Fourth Principal Meridian, McDonough County, Illinois, described as follows:

Beginning at a point on the northerly right-of-way line of Burlington Northern & Santa Fe Railroad, said point being 467.70 feet radially distance easterly from the proposed centerline of FAP Route 315 at station 556+21.66; thence northeasterly along said northerly right-of-way line, 1,687.00 feet to a point being 2,105.70 feet radially distance easterly from said centerline station 559+68.64; thence southeasterly to the southerly right-of-way line of said Railroad, said point being 2,128.02 feet radially distance easterly from said centerline 558+92.30; thence southwesterly along said southerly right-of-way line, 1,687.00 feet to a point being 494.50 feet radially distance easterly from said centerline station 555+31.02; thence northerly 100.00 feet to the Point of Beginning, containing 168,700 square feet, or 3.873 acres, more or less.

The said Tracts One and Two contain 354,400 square feet, more or less, or 8.136 acres, more or less.

The said Real Estate being also shown by the plat hereto attached and made a part hereof.

409U226TER1

**PROOF OF SERVICE**

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

Burlington Northern & Santa Fe Railway Company  
c/o Stanbach Company  
Attn: Yvonne Worsham  
3017 Lou Menk Drive, Suite 100  
Ft. Worth, TX 76131

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

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