



ILLINOIS COMMERCE COMMISSION

November 21, 2000

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

vs.

Burlington Northern & Santa Fe Railway Company,
Respondent,

Petition for approval of the taking or damaging of certain properties in
Morgan County, Illinois by exercising the right of eminent domain.
Parcels 6058109PE and 6058109TE.

T00-0027

TO ALL PARTIES OF RECORD:

HEARING EXAMINER'S PROPOSED ORDER

Attached is a copy of the Hearing Examiner's Proposed Order in the above referenced
matter.

The Hearing Examiner's Proposed Order is being sent to you pursuant to the
Commission's Rules of Practice (83 Ill. Adm. Code 200). Your case is a "contested case" or
"licensing case" as defined in Section 200.40 of the Rules and, therefore, the Hearing examiner
is required under Section 200.820 to issue a Proposed Order to all parties.

Under Section 200.830 of the Rules, exceptions to the Proposed Order and replies thereto may
be filed by the parties within the time periods established by the rules of such other times as
fixed by the hearing examiner. The times for filing exceptions and replies are fixed at six days
and three days, respectively.

Entered:

Joseph H. O'Brien
Joseph H. O'Brien, Director
Review & Examination

JHO'B:rsc

Hearing Examiner: Mr. O'Brien

Railroad Staff: Mr. Humphries

DOCKETED

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conveyance been agreed to, which necessitates that Petitioner be given approval by the Commission to exercise its power of eminent domain with regard to acquiring the easements in the parcel legally described in Appendix "A" and Appendix "B" attached hereto.

A proposed order was served on the parties.

The Commission, after a review of the entire record, finds that:

- (1) the Commission has jurisdiction of the subject matter hereof and the parties hereto;
- (2) the recitals of fact set forth in the prefatory portion of this order are supported by the evidence of record and are hereby adopted as findings of fact;
- (3) Petitioner seeks to acquire a permanent and temporary easement in Parcel 6058109PE and 6058109TE, legally described in Appendix "A" and Appendix "B" attached hereto presently owned by BN for an improvement of Illinois Route 104 in Jacksonville, Morgan County, Illinois, to better serve the traveling public and to enhance the public safety and convenience;
- (4) Petitioner presented evidence as to the ownership by BN of the property and concerning the efforts made to obtain the easement;
- (5) the evidence shows that construction can be carried out without any substantial interference with BN's conduct of its rail carrier operations;
- (6) the desired property interest is reasonably necessary for the proposed project;
- (7) the requested permanent and temporary easements should be granted.

IT IS THEREFORE ORDERED that the approval of the Commission be, and the same is hereby, granted to the Department of Transportation of the State of Illinois, for the purpose of exercising its power of eminent domain with regard to acquiring a permanent and temporary easement as to Parcel No. 6058109PE and 6058109TE, legally described in Appendix "A" and Appendix "B" attached hereto.

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IT IS FURTHER ORDERED that, subject to Sections 18c-2201 and 18c-2206 of the Law, this is a final decision subject to the Administrative Review Law.

By Order of the Commission this ___ day of _____, 2000.

Chairman

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APPENDIX "B"

Parcel: 6058109-TE
Owner: Burlington Northern and
Santa Fe Railway Company
Job No.: R-96-005-98
Route: F.A. 753 (IL 104)
Sec.: A(RS-5), 37VBR-1
County: Morgan
Sta. 38+329.862 to Sta. 38+425.410

Purpose: removal of highway bridge, grading and sloping.

Part of the Southwest Quarter of the Southeast Quarter of Section 22 and Part of the Northwest Quarter of the Northeast Quarter of Section 27, all in Township 15 North, Range 10 West of the Third Principal Meridian, Morgan County, Illinois, being more particularly described as follows:

Commencing at the southwest corner of the Southeast Quarter of said Section 22, thence South 89 degrees 40 minutes 02 seconds East along the south line of said Section 22, a distance of 101.704 meters [333.67 feet]; thence North 00 degrees 19 minutes 58 seconds East, a distance of 20.185 meters [66.22 feet] to the point of beginning.

From said point of beginning; thence South 89 degrees 31 minutes 03 seconds East, a distance of 48.666 meters [159.66 feet]; thence South 54 degrees 19 minutes 51 seconds East, a distance of 57.146 meters [187.49 feet]; thence North 89 degrees 39 minutes 09 seconds West, a distance of 56.176 meters [184.30 feet]; thence North 10 degrees 54 minutes 58 seconds West, a distance of 4.152 meters [13.62 feet]; thence North 52 degrees 26 minutes 42 seconds West, a distance of 48.095 meters [157.79 feet] to the point of beginning, containing 1,666 square meters [17,933 square feet], more or less.

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APPENDIX "A"

Parcel: 6058109-PE
Owner: Burlington Northern and
Santa Fe Railway Company
Job No.: R-96-005-98
Route: F.A. 753 (IL 104)
Sec.: A(RS-5), 37VBR-1
County: Morgan
Sta. 38+276.534 to Sta. 38+378.529

Purpose: construction and maintenance of highway bridge.

Part of the Southwest Quarter of the Southeast Quarter of Section 22,
Township 15 North, Range 10 West of the Third Principal Meridian, Morgan
County, Illinois, being more particularly described as follows:

Commencing at the southwest corner of the Southeast Quarter of said Section
22, thence South 89 degrees 40 minutes 02 seconds East along the south line of
said Section 22, a distance of 78.003 meters [255.91 feet]; thence North 00
degrees 19 minutes 58 seconds East to the Burlington Northern and Santa Fe
Railroad right of way, a distance of 38.248 meters [125.49 feet] to the point of
beginning.

From said point of beginning; thence North 52 degrees 26 minutes 40 seconds
West along said right of way, a distance of 9.793 meters [32.13 feet]; thence
North 60 degrees 22 minutes 35 seconds West along said right of way, a
distance of 24.833 meters [81.47 feet]; thence South 89 degrees 31 minutes 03
seconds East to a point on said right of way, a distance of 56.673 meters [185.93
feet]; thence South 42 degrees 51 minutes 57 seconds East along said right of
way, a distance of 16.630 meters [54.56 feet]; thence South 54 degrees 19
minutes 51 seconds East along said right of way, a distance of 41.483 meters
[136.10 feet]; thence North 89 degrees 31 minutes 03 seconds West to a point
on said right of way, a distance of 48.666 meters [159.67 feet]; thence North 52
degrees 26 minutes 37 seconds West along said right of way, a distance of
29.858 meters [97.96 feet] to the point of beginning, containing 1,759 square
meters [18,934 square feet], more or less.