

ORIGINAL

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION
STIPULATED AGREEMENT 1388**

T09-0032

This Agreement made and entered into, by and between the State of Illinois acting by and through the Illinois Commerce Commission ("Commission"), BNSF Railway Company ("Company"), Sangamon County Highway Department ("County"), and the State of Illinois, Department of Transportation ("Department" or "IDOT").

WITNESSETH:

WHEREAS, it has come to the attention of the Commission through application from BNSF Railway Company and Commission Staff investigation that inquiry should be made into the matter of improving public safety at the Thayer Road highway-rail grade crossing of the Company's track near Lowder, Sangamon County, Illinois, designated as crossing AAR/DOT #078 518B, milepost 35.86-LS13; and

WHEREAS, proper investigation has been made of the circumstances surrounding the subject crossing by a representative of the Commission's Transportation Division Railroad Section; and

WHEREAS, the physical aspects, including geometrics of the intersection, train movements, vehicular traffic volume, and sight distances and other pertinent data relating to the crossing have been obtained and shown on Exhibit A, attached to this Agreement; and

WHEREAS, the parties are mutually agreeable to accomplish proposed improvement to the crossing upon determination of the Commission by Order.

NOW, THEREFORE in consideration of the premises and of the mutual covenants and agreements as hereinafter contained the parties pray that the Commission enter an Order according to the provisions of Section 18c-7401 of the Illinois Commercial Transportation Law, 625 ILCS 5/18(c)-7401, requiring that a certain improvement as hereinafter stated be made and that the cost for the proposed improvement be divided among the parties according to law and that in the interest of the traveling public the Grade Crossing Protection Fund ("GCPF") of the Motor Fuel Tax Law ("MFT") be required to bear a substantial portion of the cost; To Wit the parties agree as follows:

Section 1 The improvement encompassed by this Agreement shall be made in accordance with all applicable State laws, rules, standards, regulations and orders and procedures in general.

Section 2 The parties are of the opinion that the following improvement in the interest of public safety at the aforesaid crossing should be:

- (a) Installation of automatic flashing light signals and gates with a bell, controlled by constant warning time circuitry, by the Company.

DOCKETED

Section 3 The Company has prepared detailed drawings, circuit plans, required specifications and a preliminary cost estimate to accomplish the proposed safety improvements, which may be required by Commission Order. The drawings, circuit plans, specifications, and cost estimate are attached and incorporated herein by reference as Exhibit B.

Section 4 The Company shall upon Order, according to the requirements contained therein, proceed toward the completion of the proposed improvement, accomplishing the work with its own forces or appropriate contracted services and agrees that an appropriate time for the completion of the proposed improvement should be twelve (12) from the date of a Commission Order approving this Agreement.

Section 5 The parties agree that an equitable division of cost for the proposed improvement is as follows:

- COST DIVISION TABLE -

IMPROVEMENT	EST. COST	GCPF	COUNTY	COMPANY	IDOT
Install Automatic Flashing Light Signals and Gates, controlled by CWT Circuitry	\$250,727	85% \$213,118 ¹	10% \$25,073	Remainder ² \$12,536	\$0
TOTALS	\$250,727	\$213,118	\$25,073	\$12,536	\$0

Notes:

¹ Total Grade Crossing Protection Fund (GCPF) assistance not to exceed \$213,118; any installation costs above the estimated amount of \$250,727 will be divided between the GCPF, County and the Company in the same percentages noted above, upon submittal and review of evidence to support the additional cost and subject to approval by the Commission.;

² Company responsible for all future operating and maintenance costs associated with the new automatic warning devices.

Section 6 The County is financially able and willing to bear an equitable portion of the cost for the proposed improvements as may be assigned by the Order and indicates this intent by Resolution incorporated herein by reference as Exhibit C. The County shall submit a certified copy of the Resolution at the same time as the Execution Page of this Agreement is submitted to the Commission.

Section 7 Special Provisions: Since the warning device improvement at the subject crossing will be performed by railroad crews, no railroad flagging or railroad protective liability insurance will be required for said work.

The Company shall complete and submit the Project Manager Information portion of the Project Status Report sheet, attached as Exhibit D, along with this executed Agreement.

The Company shall, at six (6) month intervals from the date of the Commission Order approving this Agreement, submit to the Director of Processing and Information, Transportation Bureau of the Commission, a Project Status Report, attached as Exhibit D, regarding the progress it has made toward completion of the work required by this Agreement. Each Project Status Report shall include the Commission Order's docket number, the Order date, the project completion date as noted in the Order, crossing information (inventory number and railroad milepost), type of improvement, and the name,

title, mailing address, phone number, facsimile number, and electronic mailing address of the Company Project Manager.

All bills for work specified in Section 2 of this Agreement authorized for reimbursement from the Grade Crossing Protection Fund shall be submitted to the Fiscal Control Unit, Bureau of Local Roads and Streets, Illinois Department of Transportation, 2300 S. Dirksen Parkway, Springfield, IL 62764. The Department shall send a copy of all invoices to the Director of Processing and Information, Transportation Bureau of the Commission. All bills shall be submitted no later than twelve (12) months from the completion date specified in the Commission Order approving this Agreement. The final bill for expenditures from each party shall be clearly marked "Final Bill". The Department shall not obligate any assistance from the Grade Crossing Protection Fund for the cost of proposed improvements described in this Agreement without prior approval by the Commission. The Commission shall, at the end of the 12th month from the completion date specified in the Commission Order approving this Agreement or any Supplemental Order(s) issued for this project, notify the Department to de-obligate all residual funds accountable for this project. Notification may be by regular mail, electronic mail, fax, or phone.

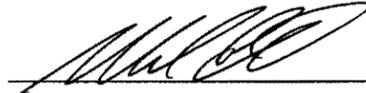
SECTION 8 Billing: For all work specified in Section 2 of this Agreement, and authorized by an Order of the Commission, the Company shall assure that sufficient documentation for all bills is made available for review by the Department or the Department's representative. The minimum documentation that must be made available is outlined below:

- a) Labor Charges (including additives) - Copies of employee work hours charged to the railroad account code for the project.
- b) Equipment Rental - Copies of rental agreements for the equipment used, including the rental rate; number of hours the equipment was used and the railroad account code for the project.
- c) Material - An itemized list of all materials purchased and installed at the crossing location. If materials purchased are installed at multiple crossing locations, a notation must be made to identify the crossing location.
- d) Engineering - Copies of employee work hours charged to the railroad account code for the project.
- e) Supervision - Copies of employee work hours charged to the railroad account code for the project.
- f) Incidental Charges - An itemized list of all incidental charges along with a written explanation of those charges.
- g) Service Dates - Invoice shall include the beginning and ending date of the work accomplished for the invoice.
- h) Final or Progressive - Each invoice shall be marked as a Progressive or a Final Invoice.
- i) Reference Numbers - Each invoice shall include the AAR/DOT number, the ICC order number and the state job number when federal funds are involved.
- j) Locations - Each invoice shall show the location, with the street name and AAR/DOT crossing inventory number.

Section 9 This Agreement shall be binding upon the parties hereto, their successors or assigns. Upon execution of this Agreement by all parties, the Commission shall enter an appropriate Order, within 60 days accepting or rejecting such stipulation according to the provisions contained herein.

In Witness Whereof, the parties have caused this Agreement to be executed by their duly authorized officers, as of the dates indicated on their respective Execution Pages, attached hereto.

Executed by the Commission this 16th day of January 2009.



Michael E. Stead
Rail Safety Program Administrator

Attest:



John Saladino
Rail Safety Specialist

Illinois Commerce Commission Stipulated Agreement 1388, executed by Commission Staff on January 16, 2009, concerning improvements at the Thayer Road (AAR/DOT #078 518B; railroad milepost 35.86-LS13) highway-rail grade crossing of the BNSF Railway Company's track, located near Lowder, Sangamon County.

Executed by Sangamon County Highway Department this Board 10th day of February 2009.

Board
SANGAMON COUNTY HIGHWAY
DEPARTMENT

By: A. Sun Shuts
Sangamon County Board Chairman

Attest:

Joe Quillo

Illinois Commerce Commission Stipulated Agreement 1388, executed by Commission Staff on January 16, 2009, concerning improvements at the Thayer Road (AAR/DOT #078 518B; railroad milepost 35.86-LS13) highway-rail grade crossing of the BNSF Railway Company's track, located near Lowder, Sangamon County.

Executed by the Illinois Department of Transportation this 24th day of February 2009.

STATE OF ILLINOIS
DEPARTMENT OF TRANSPORTATION

By: Christine M. Reed
Christine M. Reed, Director of Highways/ Chief Engineer

Illinois Commerce Commission Stipulated Agreement 1388, executed by Commission Staff on January 16, 2009, concerning improvements at the Thayer Road (AAR/DOT #078 518B; railroad milepost 35.86-LS13) highway-rail grade crossing of the BNSF Railway Company's track, located near Lowder, Sangamon County.

Executed by BNSF Railway Company this 26th day of FEBRUARY 2009.

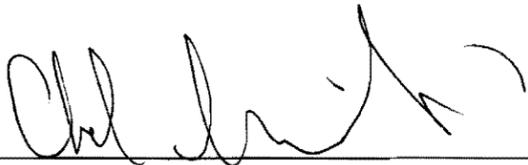
BNSF RAILWAY COMPANY

By:



A handwritten signature in cursive script is written over a horizontal line. The signature appears to be "J. K. ...".

Attest:



A handwritten signature in cursive script is written over a horizontal line. The signature appears to be "Chad ...".

**ILLINOIS COMMERCE COMMISSION
STIPULATED AGREEMENT
CROSSING DATA FORM**

GENERAL INFORMATION: See Location Sketch

RAILROAD	BNSF
USDOT#, MILEPOST	078 518B, 35.86-LS13
STREET, CITY, COUNTY	Thayer Rd. (n) Lowder, Sangamon
JURISDICTION (RDWY)	Sangamon County
LOCATION	Rural
STREET SURFACE	22' Oil/Chip, Good Condition

CROSSING DATA: See Location Sketch for roadway profile and track centers

TRACK (NW-SE)	SURFACE TYPE	SURFACE WIDTH	SURFACE CONDITION
Main	Concrete Panels	48'	Good

ROADWAY DATA: See Location Sketch

INTERSECTING ROADS:	None
TRAFFIC CONTROL	None
ADT & SPEED	300 Vehicles Per Day @ 55 MPH (Unposted)
TRAFFIC TYPE	Passenger, School Buses, Hazardous Materials, Other
ADVANCE WARNING	Yes
PAVEMENT MARKING	Yes – Centerline; No – RR Symbols

RAILROAD DATA: See Location Sketch

FREIGHT TRAFFIC	19 Per day @ 49 MPH, Day & Night? Yes
PASSENGER TRAFFIC	No
WARNING DEVICES	AFLS

NOTES:

VISIBILITY STUDY: See Location Sketch

Train Speed	49	MPH
Roadway Speed	55	MPH
Required Stopping Sight Distance (SSD)		
Along Roadway	518	FEET
Along Tracks	530	FEET
Required Clearing Sight Distance (CSD) (Along Tracks)	1,177	FEET

Distances calculated per American Association of State Highway and Transportation Officials (AASHTO), A Policy on Geometric Design of Highways and Streets, 2001, Fourth Edition.

QUADRANT	CSD (FT)	OBSTRUCTION	SSD (FT)	OBSTRUCTION
NE	*	Ok	*	Crops
NW	800'	Trees	*	"
SE	*	OK	*	"
SW	800'	Trees	*	"

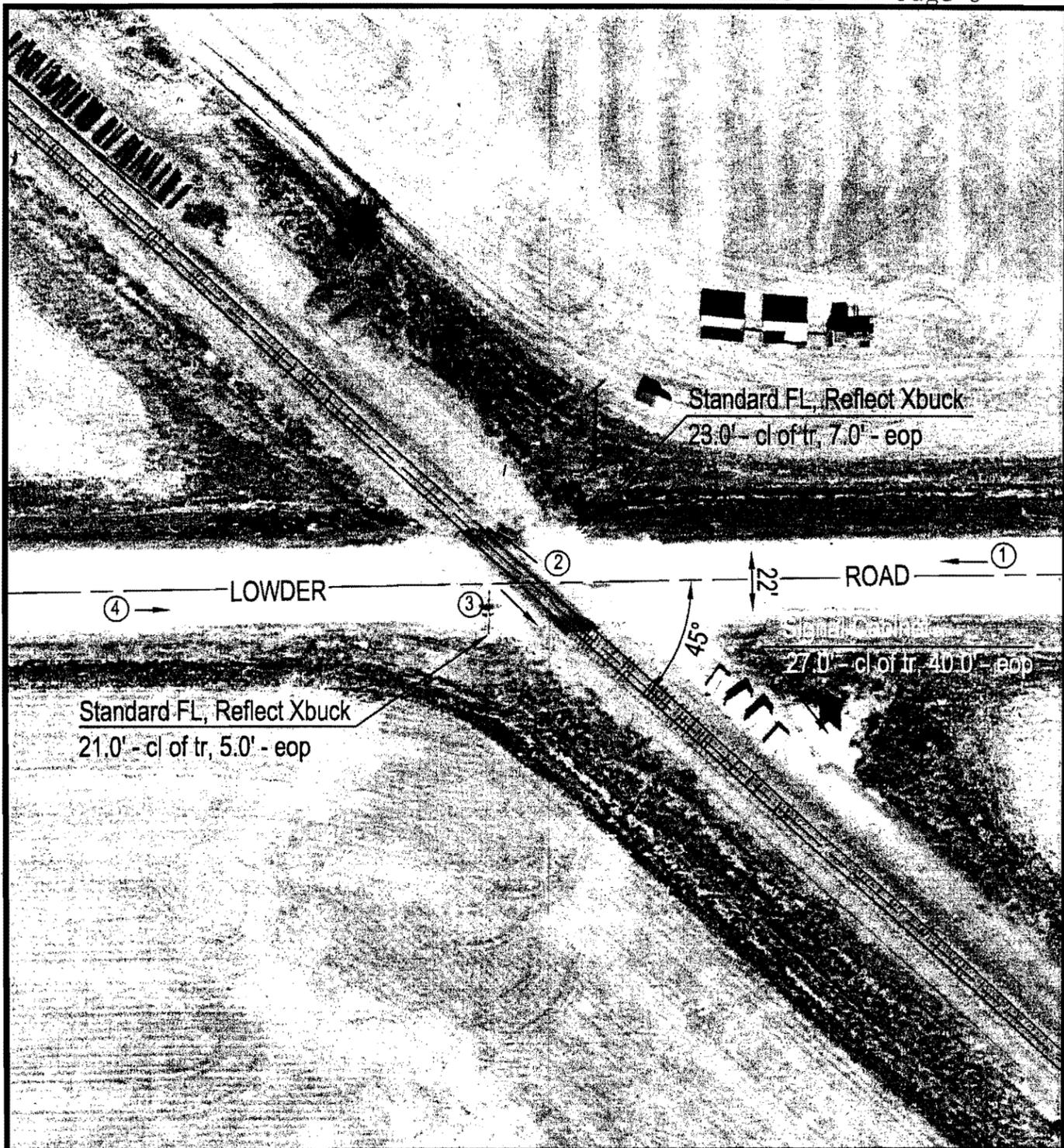
*Note: The installation of automatic flashing light signals and gates eliminate the need to satisfy minimum Sight Distance criteria.

APPROACH GRADES: See Location Sketch

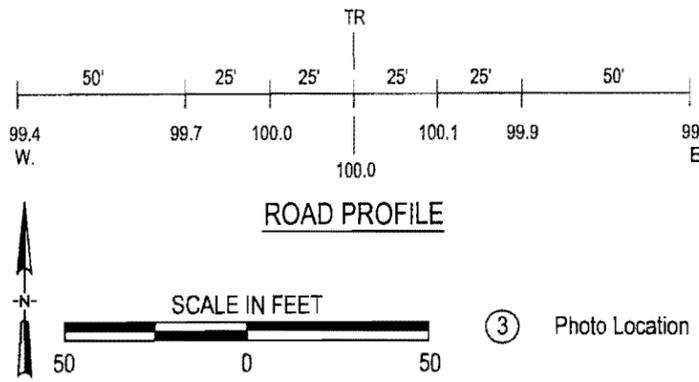
DIRECTION: EAST/NORTH			DIRECTION: WEST/SOUTH		
DISTANCE (FT)	ELEVATION (FT)	GRADE (%)	DISTANCE (FT)	ELEVATION (FT)	GRADE (%)
See	Exhibit	A	Page	3	
"	"	"	"	"	

Distance measured from outermost rail.

COMMENTS: See Page 3 for an Aerial View (Location Sketch) of the crossing.



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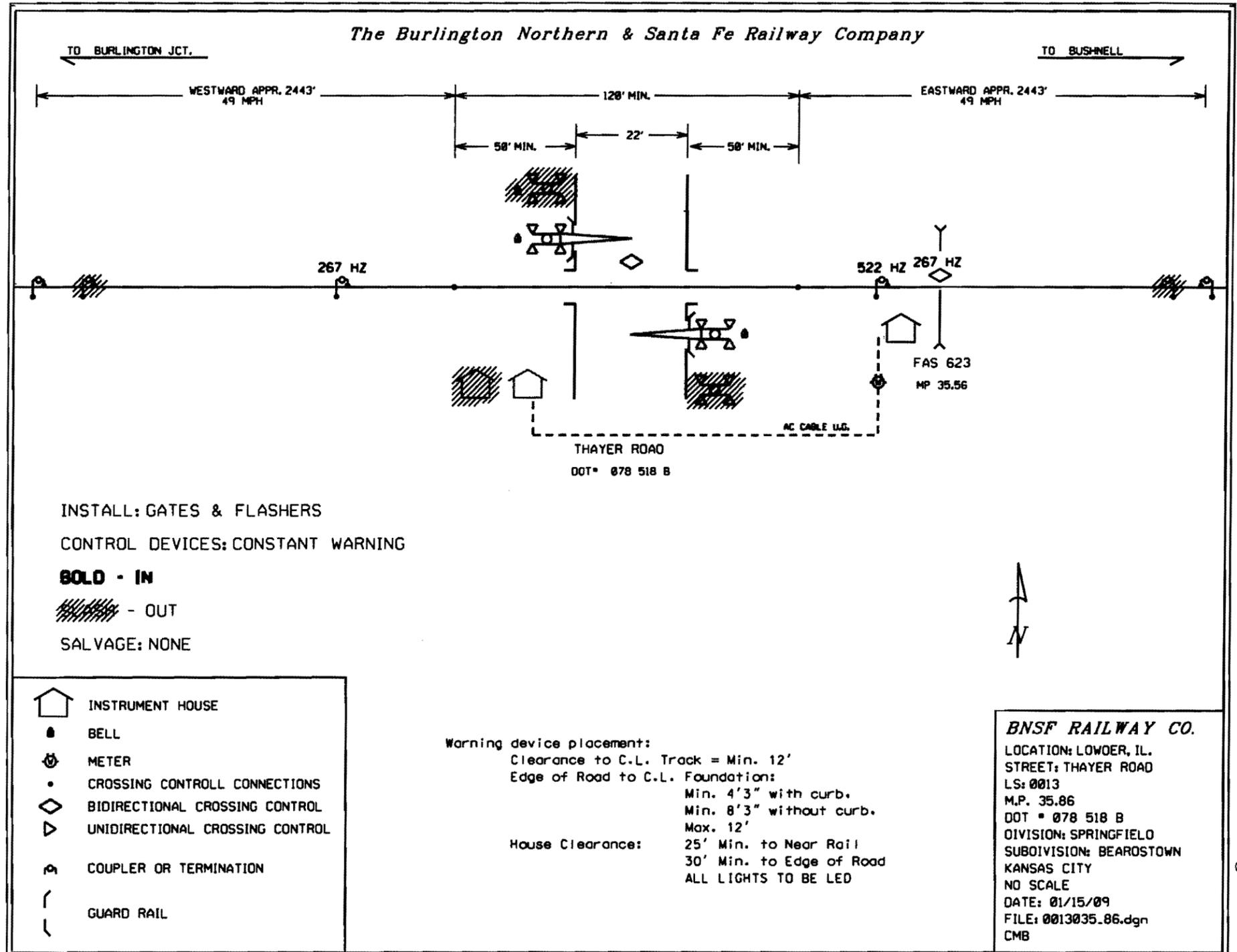


Crossing #:	078518B
Location:	Sangamon Co., City of Lowder (N)
Lat/Long:	39°32'40" / 89°50'15"
Railroad:	BNSF
Street:	Lowder Road
Railroad Milepost:	35.86
Crossing Protection:	Train Activated Devices

TOTAL MATERIAL COST		<u>106,502</u>	<u>106,502</u>

OTHER			

AC POWER SERVICE	1.0 EA	5,000	
CONTRACT ENGR.	1.0 EA N	5,000	
FILL DIRT	40.0 CY N	1,000	
SURFACE ROCK	40.0 CY N	1,000	
TOTAL OTHER ITEMS COST		<u>12,000</u>	<u>12,000</u>
PROJECT SUBTOTAL			225,677
CONTINGENCIES			22,567
BILL PREPARATION FEE			<u>2,483</u>
GROSS PROJECT COST			250,727
LESS COST PAID BY BNSF			<u>12,538</u>
TOTAL BILLABLE COST			<u>238,189</u>



ILLINOIS COMMERCE COMMISSION
STIPULATED AGREEMENT 1388

Date 2/10/09

The Sangamon County Board meeting on February 10, 2009,
(Date)

Resolved to authorize Andy VanMeter, Sangamon County Board Chairman
(Name, Office)

to act as its designated agent in the processing of this Stipulated Agreement and that the County is financially willing and able to pay a portion of the cost for the proposed improvements as outlined in Section 2 of this Agreement.

**ILLINOIS COMMERCE COMMISSION
 TRANSPORTATION DIVISION / RAIL SAFETY SECTION
PROJECT STATUS REPORT:**

TYPE: (CHECK ONE)

PROGRESS	<input type="checkbox"/>
COMPLETION	<input type="checkbox"/>

DATE	3-9-09
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PROJECT INFORMATION:

Reporting Party:	BNSF Railway Company
Docket/Order #; Date:	TO 9-0032
Status Reports Due:	
Ordered Completion Date:	
Completion Report Due ¹ :	
AAR/DOT#, Milepost:	#078 518B, mp 35.86-LS13
Street, (in/near) City, County:	Thayer Rd., (n) Lowder, Sangamon County
Railroad Company:	BNSF Railway Company

¹Completion reports involving changes to the railroad crossing must include an updated USDOT Inventory Form.

PROJECT MANAGER INFORMATION²:

Name:	Chad Scherwinski
Title:	Public Project Engineer
Representing:	BNSF Railway Company
Street Address:	80-44 th Avenue N. E.
City, State, Zip:	Minneapolis, MN 55421
Office Phone:	763/782-3468
Office Fax:	763/782-3061
Cellular Phone:	612/812-9928
E-Mail Address:	chad.scherwinski@bnsf.com

²Project Manager Information to be submitted by BNSF Railway Company

DESCRIPTION OF IMPROVEMENT(S) ORDERED:

- Install new automatic flashing light signals and gates controlled by constant warning time circuitry.

STATUS OF WORK:

**ILLINOIS COMMERCE COMMISSION
TRANSPORTATION DIVISION / RAIL SAFETY SECTION**

Mail directed to the **Rail Safety Section** or the **Director of Processing and Information**, Transportation Bureau of the Commission should be addressed to:

Illinois Commerce Commission
527 E. Capitol Avenue
Springfield, IL 62701-1827

If you have questions contact:

John Saladino, Rail Safety Specialist
Phone: (217) 785-8423
Email: jsaladino@icc.illinois.gov

A **Form 3** can be obtained from the Illinois Commerce Commission by calling 217/782-7660 or on the web at:

<http://www.icc.illinois.gov/forms/results.aspx?st=4>

The billing address for **Grade Crossing Protection Fund** reimbursement is:

SIGNAL WORK Illinois Department of Transportation Fiscal Control Unit Bureau of Local Roads and Streets 2300 S. Dirksen Parkway Springfield, IL 62764	APPROACH/BRIDGE WORK
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United States Department of Transportation Inventory Form #6180.71 can be obtained on the web at:

<http://www.fra.dot.gov/us/content/801>

Submit Inventory forms to:

Federal Railroad Administration Office of Safety, MS25 1200 New Jersey Avenue SE Washington, DC 20590-0001	And	Chief of Data Services Illinois Department of Transportation 2300 S. Dirksen Parkway Springfield, IL 62764
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