

709-0034

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION
STIPULATED AGREEMENT 1391

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"), Cedar Township Road District ("Road District"), and the State of Illinois, Department of Transportation ("Department" or "IDOT").

WITNESSETH:

WHEREAS, it has come to the attention of the Commission through joint Department and Commission Staff investigation that inquiry should be made into the matter of improving public safety at the 850N/TR 265 highway-rail grade crossing of the Company's track near Galesburg, Knox County, Illinois, designated as crossing AAR/DOT #072 974F, railroad milepost 170.05-LS11; 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 the proposed improvements at 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 certain improvements as hereinafter stated be made and that the cost for the proposed improvements 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 All improvements 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 improvements 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

- (b) Installation of temporary STOP signs within 30 days of a Commission Order for the installation of new automatic warning devices, by the Company.
- (c) Reconstruction of the highway approach grades to meet the minimum requirements of 92 Ill. Adm. Code 1535, by the Road District.

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.

The County on behalf of the Road District has prepared a preliminary cost estimate to accomplish the proposed highway approach grade improvements, which may be required by Commission Order. The drawings, specifications, and cost estimate are attached and incorporated herein by reference as Exhibit C.

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

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

- COST DIVISION TABLE -

IMPROVEMENT	EST. COST	GCPF	ROAD DISTRICT	COMPANY	IDOT
Install Automatic Flashing Light Signals and Gates, controlled by CWT Circuitry	\$326,154	\$0	\$0	\$0 ²	100% \$326,154 ⁴
Modify Existing Highway Approaches	\$60,400	100% \$60,400 ¹	\$0 ³	\$0	\$0
Install temporary STOP Signs	No Estimate Required	\$0	\$0	100% ⁵	\$0
TOTALS	\$386,554	\$60,400	\$0	\$0	\$326,154

Notes:

¹ Total Grade Crossing Protection Fund (GCPF) assistance for reconstruction of the highway approach grades not to exceed \$60,400; any highway approach grade improvement costs above the estimated amount of \$60,400 will be paid for by the Road District.

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

³ Road District responsible for all future maintenance costs associated with the highway approaches.

⁴ Total IDOT assistance, utilizing federal funds, for the installation of automatic warning devices not to exceed \$326,154; any installation costs above the estimated amount of \$326,154 will be the responsibility of the Company.

⁵ Company responsible for all future maintenance costs associated with the temporary STOP Signs, if ordered

Section 6 The Road District is not required to pay any portion of the cost for the proposed improvements.

Section 7 Special Provisions: Since federal funding is being utilized for the warning device improvements at the subject crossing, all such work shall be covered by appropriate provisions of Title 23, Chapter I, Subchapter G, Part 646 of the Federal-Aid Policy Guide adopted Dec. 9, 1991.

Since the warning device improvements at the subject crossing will be performed by railroad crews, no railroad flagging or railroad protective liability insurance will be required for said work.

Since the Roadway improvements at the subject crossing will be performed by Road District, Railway flagger, unless determined otherwise by BNSF Railway's Project Representative, will be required and furnished when Contractor's work activities are located over, under and/or within twenty-five (25) feet measured horizontally from centerline of the nearest track and when cranes or similar equipment positioned beyond twenty-five (25) feet from the track centerline could foul the track in the event of tip over or other catastrophic occurrence. In addition, railroad protective liability insurance will be required for said work.

The Company and Road District shall complete and submit the Project Manager Information portion of the Project Status Report sheet, attached as Exhibits D and D1, along with this executed Agreement.

The Company and Road District 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 Exhibits D and D1, regarding the progress each 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 and Road District Project Manager.

All bills for warning device improvement 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. The final bill for expenditures from each party shall be clearly marked "Final Bill". All bills shall be submitted no later than twelve (12) months from the completion date specified in the Commission Order approving this Agreement. The Department shall not obligate any funds 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, Orders or any Supplemental Order(s) issued for this project, notify the Department to de-obligate all residual GCPF assistance accountable for this project. Notification may be by regular mail, electronic mail, fax, or phone

All bills for highway approach grade improvement work specified in Section 2 authorized for reimbursement from the Grade Crossing Protection Fund shall be submitted to the Department's District 4 Office, located at 401 Main, Peoria, IL 61602, Attn: L. Scot LaSalle, Local Roads Engineer. The Department shall send a copy of all invoices to the Director of Processing and Information, Transportation Bureau of the Commission. The final bill for expenditures from each party shall be clearly marked "Final Bill". All bills shall be submitted no later than twelve (12) months from the completion date specified in the Commission Order approving this Agreement. The Department shall not obligate any funds 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, Orders or any Supplemental Order(s) issued for this project, notify the Department to de-obligate all residual GCPF assistance 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 Company and Road District 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 Company and Road District 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 Company and Road District account code for the project.
- e) Supervision - Copies of employee work hours charged to the Company and Road District 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 should include the beginning and ending date of the work accomplished for the invoice.
- h) Final or Progressive - Each invoice should be marked as a Progressive or a Final Invoice.
- i) Reference Numbers - Each invoice should include the AAR/DOT number, the ICC Order number and the state job number when federal funds are involved.
- j) Locations - Each invoice should 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 2nd day of February 2009.



Michael E. Stead
Rail Safety Program Administrator

Attest: 

John R. Saladino
Rail Safety Specialist

Illinois Commerce Commission Stipulated Agreement 1391, executed by Commission Staff on February 2, 2009, concerning improvements at the 850N/TR265 (AAR/DOT #072 974F; railroad milepost 170.05-LS11) highway-rail grade crossing of the BNSF Railway Company's track, located near Galesburg, Knox County, Illinois.

Executed by Cedar Township Road District this 13 day of FEB. 2009.

CEDAR TOWNSHIP ROAD DISTRICT

By: Tom Whaley Hwy Comm.

Attest:

Duane J. Ratzmann

Illinois Commerce Commission Stipulated Agreement 1391, executed by Commission Staff on February 2, 2009, concerning improvements at the 850N/TR265 (AAR/DOT #072 974F; railroad milepost 170.05-LS11) highway-rail grade crossing of the BNSF Railway Company's track, located near Galesburg, Knox County, Illinois.

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

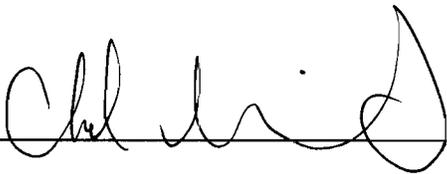
BNSF RAILWAY COMPANY

By:



A handwritten signature in black ink, appearing to be "J. K. ...", is written over a horizontal line.

Attest:



A handwritten signature in black ink, appearing to be "Chad ...", is written over a horizontal line.

Illinois Commerce Commission Stipulated Agreement 1391, executed by Commission Staff on February 2, 2009, concerning improvements at the 850N/TR265 (AAR/DOT #072 974F; railroad milepost 170.05-LS11) highway-rail grade crossing of the BNSF Railway Company's track, located near Galesburg, Knox County, Illinois.

Executed by the Illinois Department of Transportation this 12th day of March 2009.

STATE OF ILLINOIS
DEPARTMENT OF TRANSPORTATION

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

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

GENERAL INFORMATION: See Location Sketch

RAILROAD	BNSF
USDOT#, MILEPOST	072 974F, 170.05-LS11
STREET, CITY, COUNTY	850N/TR265, (n) Galesburg, Knox
JURISDICTION (RDWY)	Cedar Township Road District
LOCATION	Rural
STREET SURFACE	14' Aggregate, Fair Condition

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

TRACK (W-E or N-S)	SURFACE TYPE	SURFACE WIDTH	SURFACE CONDITION
N-S	Full Depth Timber	32'	Good

ROADWAY DATA: See Location Sketch

INTERSECTING ROADS:	None
TRAFFIC CONTROL	None
ADT & SPEED	50 Vehicles Per Day @ 55 MPH Unposted
TRAFFIC TYPE	Passenger, School Buses, Hazardous Materials all possible
ADVANCE WARNING	Yes
PAVEMENT MARKING	No

RAILROAD DATA: See Location Sketch

FREIGHT TRAFFIC	34 Per day @ 79 MPH, Day & Night? Yes
PASSENGER TRAFFIC	6 Per day @ 79 MPH, Day & Night? Yes
WARNING DEVICES	Crossbucks w/Yield signs

NOTES:

VISIBILITY STUDY: See Location Sketch

Train Speed	79	MPH
Roadway Speed	55	MPH
Required Stopping Sight Distance (SSD)		
Along Roadway	518	FEET
Along Tracks	863	FEET
Required Clearing Sight Distance (CSD) (Along Tracks)	1921	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	100'	Crops
NW	*	OK	100'	Crops
SE	*	OK	100'	Crops
SW	*	OK	OK	Pasture

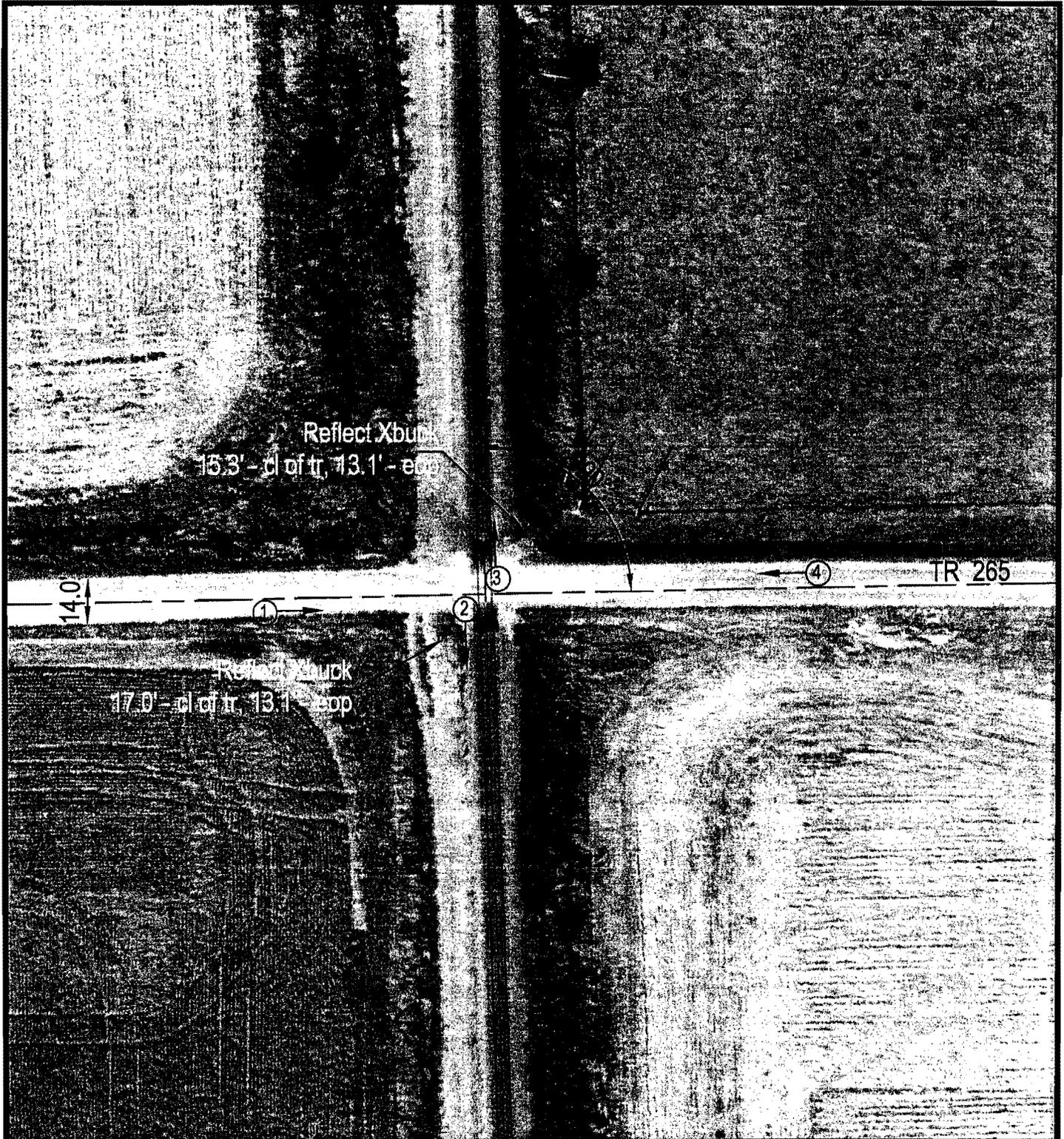
*Note: The installation of automatic flashing light signals and gates eliminate the need to satisfy minimum Sight Distance criteria.

APPROACH GRADES: See Location Sketch

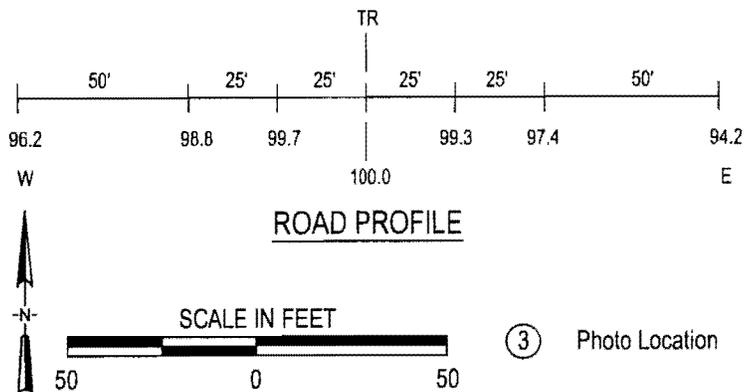
DIRECTION: EAST/NORTH			DIRECTION: WEST/SOUTH		
DISTANCE (FT)	ELEVATION (FT)	GRADE (%)	DISTANCE (FT)	ELEVATION (FT)	GRADE (%)
See	Exhibit	A	Page	3	

Distance measured from outermost rail.

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



d:\work\1072974F\1072974F.DWG 03/20/00 08:17 .LA



Crossing #: 072974F

Location: Knox Co., City of Galesburg (Near)

Lat/Long: 40°50'19" / 90°23'39"

Railroad: BNSF

Street: TR 265

Railroad Milepost: 170.05

Crossing Protection: Sign

OFFLINE TRANSPORTATION		1,366	
TOTAL MATERIAL COST		148,114	148,114

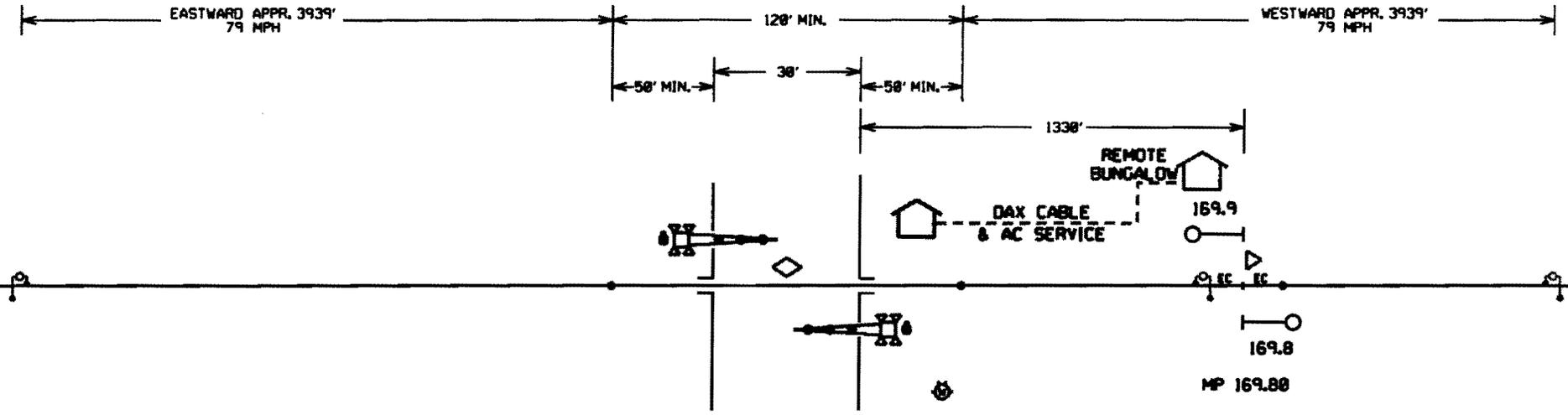
OTHER			

AC POWER SERVICE	1.0 EA	5,000	
CONTRACT ENGR.	1.0 EA N	7,000	
SURFACE ROCK	30.0 CY N	750	
TOTAL OTHER ITEMS COST		12,750	12,750
PROJECT SUBTOTAL			293,568
CONTINGENCIES			29,356
BILL PREPARATION FEE			3,230
GROSS PROJECT COST			326,154
LESS COST PAID BY BNSF			16,308
TOTAL BILLABLE COST			309,846

The Burlington Northern & Santa Fe Railway Company

TO QUINCY

TO GALESBURG



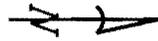
TR 265
DOT * 072 974 F

INSTALL: GATES & FLASHERS
CONTROL DEVICES: CONSTANT WARNING

BOLD - IN

- OUT

SALVAGE: NONE



- INSTRUMENT HOUSE
- BELL
- METER
- CROSSING CONTROL CONNECTIONS
- BIDIRECTIONAL CROSSING CONTROL
- UNIDIRECTIONAL CROSSING CONTROL
- COUPLER OR TERMINATION
- GUARD RAIL

Warning device placement:
 Clearance to C.L. Track = Min. 12'
 Edge of Road to C.L. Foundation:
 Min. 5'3" with curb.
 Min. 9'3" without curb.
 Max. 12'
 House Clearance:
 25' Min. to Near Rail
 30' Min. to Edge of Road
 ALL LIGHTS TO BE LED

BNSF RAILWAY CO.
 ABINGOON, IL.
 TR 265
 LS: 0011
 M.P. 170.05
 DOT * 072 974 F
 DIVISION: CHICAGO
 SUBDIVISION: BROOKFIELD
 KANSAS CITY
 NO SCALE
 DATE: 01/14/09
 FILE: 0011170.05.dgn
 CMB

SA 1391

Exhibit B

Page 3

County: Knox
Township: Cedar
Route: TR-265 (850N)
Crossing: unknown

COST ESTIMATE

ITEM	QTY	UNIT COST	COST
Furnished Excavation	1,800 cy	\$ 16.00	\$ 28,800.00
Aggregate Surf Cse B	900 Ton	\$ 24.00	\$ 21,600.00
RR Protective Liability Insurance	1 Each	\$ 5,000.00	\$ 5,000.00
RR Flagger	5 Days	\$ 1,000.00	\$ 5,000.00
TOTAL COST			\$ 60,400.00

Note: This estimate is for bringing the approaches of TR-265 to standards as follows:

a 1% grade from the outer rail of the outermost track for a distance of 25 feet, then to the RR right-of-way line at a grade of 4% to the West and 5% to the East.

These unit cost are based off the most recent IDOT state bid prices for materials-- they are only an estimate. All labor and equipment costs are included in the cost of the above materials.

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

PROJECT STATUS REPORT:

TYPE: (CHECK ONE)

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

DATE	3-16-09
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PROJECT INFORMATION:

Reporting Party:	BNSF Railway Company
Docket/Order #; Date:	T09-0034
Status Reports Due:	
Ordered Completion Date:	
Completion Report Due ¹ :	
AAR/DOT#, Milepost:	072 974F, MP 170.05-LS11
Street, (in/near) City, County:	850N/TR265, (n) Galesburg, Knox 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 Railroad Company

DESCRIPTION OF IMPROVEMENT(S) ORDERED:

- Install new automatic flashing light signals and gates controlled by constant warning time circuitry at the 850N/TR265 crossing.
- Install temporary STOP signs.

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

Joseph E. Crowe, Region Engineer
Attn: L. Scot LaSalle, Local Roads
Engineer
401 Main
Peoria, Illinois 61602

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	<u>And</u>	Chief of Data Services Illinois Department of Transportation 2300 S. Dirksen Parkway Springfield, IL 62764
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**ILLINOIS COMMERCE COMMISSION
TRANSPORTATION DIVISION / RAIL SAFETY SECTION
PROJECT STATUS REPORT:**

TYPE: (CHECK ONE)

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

DATE	3-16-09
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PROJECT INFORMATION:

Reporting Party:	Cedar Township Road District
Docket/Order #; Date:	TOA-0034
Status Reports Due:	
Ordered Completion Date:	
Completion Report Due ¹ :	
AAR/DOT#, Milepost:	072 974F, MP 170.05-LS11
Street, (in/near) City, County:	850N/TR265, (n) Galesburg, Knox 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:	Tom Wherley
Title:	Highway Commissioner
Representing:	Cedar Township Road District
Street Address:	P.O. Box 254
City, State, Zip:	Abingdon, Illinois 61410
Office Phone:	
Office Fax:	
Cellular Phone:	309-221-2108
E-Mail Address:	

²Project Manager Information to be submitted by the Cedar Township Road District

DESCRIPTION OF IMPROVEMENT(S) ORDERED:

- Improve highway approach grades to meet the minimum requirements of 92 Ill. Adm. Code 1535.

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:

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401 Main
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