

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

BNSF RAILWAY COMPANY AND)	
DUNLIETH TOWNSHIP in JO DAVIESS)	
COUNTY, ILLINOIS,)	
)	
Petitioners,)	
v.)	NO. T07- 0091
)	
CHICAGO, CENTRAL & PACIFIC RAILROAD)	
COMPANY and STATE OF ILLINOIS)	
DEPARTMENT OF TRANSPORTATION,)	
)	
Respondents.)	

Petition for an Order of the Illinois Commerce Commission authorizing the establishment of grade crossings inventoried as DOT #306 915 E (M.P. 181.62) and DOT #306916 L (M.P. 181.66), at what is commonly known as Barge Harbor Road near East Dubuque, Jo Daviess County, Illinois, as public grade crossings, at their intersection with the main line tracks of BNSF Railway Company and CCP, and for determination by the Illinois Commerce Commission of the appropriate level of warning devices and division of the costs among the parties.

BNSF's and CCP's Response to the Proposed Order

Now Comes Petitioner, BNSF Railway Company (BNSF) and Chicago, Central and Pacific Railroad Company (CCP), by their respective attorneys, DALEY MOHAN GROBLE, P.C. and FLETCHER & SIPPEL, LLC, and for their joint response to the proposed order, states:

BNSF and CCP recommend the following changes to the proposed order:

1. To avoid confusion, and to accurately reflect its current name, it is requested that BNSF Railway Company be also referred to as "BNSF", not "BN", in the text of the order.
2. Under "PROCEDURAL HISTORY", LINE 3, insert ""BHR" or" after the name of the roadway, as the order refers to Barge Harbor Road as "BHR" or "the roadway" at various parts of the order.
3. In the first two sentences of the last paragraph under "PETITIONER'S EVIDENCE" on page 2, that the following language be deleted "All of the parties agree that automatic flashing lights and gates (AFLSG) are warranted ..." and be replaced with "The parties now propose that the Illinois Commerce Commission consider, in the interest of public safety, the installation of automatic flashing light signals and gates (AFLSG)"

BNSF and CCP believe the latter language accurately sets forth the terms and spirit of the agreement, and the testimony of record, while the current language does not.

4. Under “STAFF POSITION”, insert at the start of the second sentence, “The Staff’s investigation indicates that”; or alternatively set forth that Staff investigated the area and circumstances at the crossings in another appropriate location in the order.

BNSF RAILWAY COMPANY

By: (s)Robert J. Prendergast
Robert J. Prendergast

**CHICAGO, CENTRAL & PACIFIC
RAILROAD COMPANY**

By: (s) Jeremy M. Berman
Jeremy M. Berman

Robert J. Prendergast
John Newell
Daley Mohan Groble, P.C.
55 West Monroe
Suite 1600
Chicago, IL 60603
(312) 422-0799
rprendergast@daleymohan.com

Jeremy M. Berman
FLETCHER & SIPPEL, LLC
29 North Wacker
Suite 920
Chicago, IL 60602
jberman@fletcher-sippel.com

CERTIFICATE OF SERVICE

I, Robert J. Prendergast, an attorney, hereby certify that on the 30th day of April, 2009, I caused the foregoing **BNSF's and CCP's Response to the Proposed Order** to be served on the parties of record by efilng same with the Illinois Commerce Commission and by email to the following at the indicated email addresses:

John Saladino
Railroad Section
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, Illinois 62701
jsaladino@icc.illinois.gov

Christine Reed, P.E.
Director of Highways
Illinois Department of
Attention: Jeff Harpring, Room 205
2300 South Dirksen Parkway
Springfield, Illinois 62764
jeff.harpring@illinois.gov

Vincent Hasken
Dunlieth Township – Supervisor
18 North J.F. Kennedy Drive
East Dubuque, Illinois 61025
vhasken@mchsi.com

Thomas J. Healey
Attorney Counsel Regulatory
CN
17641 South Ashland Avenue
Homewood, Illinois 60430
Tom.Healey@cn.ca

Lance T. Jones
Deputy Chief Counsel – IDOT
2300 South Dirksen Parkway, Room 300
Springfield, Illinois 62764
lance.jones@illinois.gov

Jeremy M. Berman
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 920
Chicago, Illinois 60606-2832
jberman@fletcher-sippel.com

David Lazarides
Director of Processing
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, Illinois 62701
dlazarid@icc.illinois.gov

Thomas L. Sanders
Ward, Murray, Pace & Johnson, P.C.
202 East Fifth Street
Sterling, IL 61081
sanders@wmpj.com

Mr. Lawrence D. Parrish
Assistant Chief Counsel-IDOT
300 West Adams, 2nd Floor
Chicago, IL 60606
lawrence.parrish@illinois.gov

(s) Robert J. Prendergast

Robert J. Prendergast