

ORIGINAL

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION
STIPULATED AGREEMENT 1406**

T09-0081

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"), Mound Township Road District ("Road District"), McDonough 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 Staff investigation that inquiry should be made into the matter of improving public safety at the TR95 highway-rail grade crossing of the Company's tracks near Bushnell, McDonough County, Illinois, designated as crossing AAR/DOT #063 789M, railroad milepost 193.08-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 proposed improvements 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 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.
- (b) Installation of temporary STOP signs at the TR95 crossing within 30 days of a Commission Order for the installation of new automatic

DOCKETED

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(s) are attached and incorporated herein by reference as Exhibit B.

The County, on behalf of the Road District, has prepared a preliminary plan and cost estimate to accomplish the proposed TR95 roadway improvements, which may be required by Commission Order. The County will be performing the approach improvement work on behalf of the Road District, utilizing its' own forces. The drawings, specifications, and cost estimate are attached and incorporated herein by reference as Exhibit C.

Section 4 The Company and County 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	COUNTY	COMPANY
Install Automatic Flashing Light Signals and Gates, controlled by CWT Circuitry	\$375,213	95% \$356,452 ¹	\$0	\$0	Remainder ² \$18,761
Modify Existing Highway Approaches	\$35,165	\$35,165 ⁵	\$0 ^{4,5}	\$0	\$0
Install temporary STOP Signs, if ordered	No Estimate Required	\$0	\$0	\$0	100% ³
TOTALS	\$410,378	\$391,617	\$0	\$0	\$18,761

Notes:

¹ Total Grade Crossing Protection Fund (GCPF) assistance for the installation of the automatic warning devices not to exceed \$356,452; any installation costs above the estimated amount of \$375,213 will be divided between the GCPF 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.

³ Company responsible for all future maintenance costs associated with the temporary STOP Signs.

⁴ Road District responsible for all future maintenance costs associated with the highway approaches.

⁵ Total GCPF assistance for the modification of the highway approaches, subject to the approval of the Commission, not to exceed \$35,165; any costs above the estimated amount of \$35,165, as well as all other costs associated with the roadway improvements, will be the responsibility of the Road District.

Section 6 The Road District is not financially able to bear an equitable portion of the cost for the proposed improvements, has requested relief from said costs, and submitted documentation attesting to the Road District's inability to pay, attached and incorporated herein by reference as Exhibit D.

Section 7 Special Provisions: Since the Roadway improvements at the subject crossing will be performed by the County, railway flagger, unless determined otherwise by BNSF Railway's Project Representative, will be required and furnished when County'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 the 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 County shall complete and submit the Project Manager Information portion of the Project Status Report sheet, attached as Exhibits E and E1, along with this executed Agreement.

The Company and County 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 E and E1, 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 and County Project Manager.

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: Derek Parish, Local Roads Engineer. All other 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. 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 Company 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 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 account code for the project.
- e) Supervision - Copies of employee work hours charged to the Company 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 21st day of April 2009.



Michael E. Stead
Rail Safety Program Administrator

Attest:



John Saladino
Rail Safety Specialist

Illinois Commerce Commission Stipulated Agreement 1406, executed by Commission Staff on April 21, 2009, concerning improvements at the TR95 highway-rail grade crossing of the BNSF Railway Company's track, near Bushnell, McDonough County, Illinois, designated as crossing AAR/DOT #063 789M, railroad milepost 193.08-LS11.

Executed by Mound Township Road District this 24th day of April 2009.

MOUND TOWNSHIP ROAD DISTRICT

By: J. Baker

RECEIVED
APR 28 2009

Illinois Commerce Commission
RAIL SAFETY OFFICE

Attest:

Carol A. Fowler

Illinois Commerce Commission Stipulated Agreement 1406, executed by Commission Staff on April 21, 2009, concerning improvements at the TR95 highway-rail grade crossing of the BNSF Railway Company's track, near Bushnell, McDonough County, Illinois, designated as crossing AAR/DOT #063 789M, railroad milepost 193.08-LS11.

Executed by McDonough County Highway Department this 24th day of APRIL 2009.

MCDONOUGH COUNTY HIGHWAY DEPARTMENT

By: Robert J. Wickman

RECEIVED
APR 28 2009
Illinois Commerce Commission
RAIL SAFETY SECTION

Attest:

Carol A. Fowler

Illinois Commerce Commission Stipulated Agreement 1406, executed by Commission Staff on April 21, 2009, concerning improvements at the TR95 highway-rail grade crossing of the BNSF Railway Company's track, near Bushnell, McDonough County, Illinois, designated as crossing AAR/DOT #063 789M, railroad milepost 193.08-LS11.

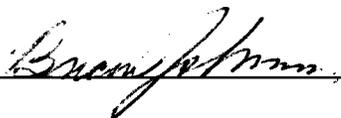
Executed by BNSF Railway Company this 6th day of May 2009.

BNSF RAILWAY COMPANY

By: 

Asst. Vice President Engineering Services

Attest:



Illinois Commerce Commission Stipulated Agreement 1406, executed by Commission Staff on April 21, 2009, concerning improvements at the TR95 highway-rail grade crossing of the BNSF Railway Company's track, near Bushnell, McDonough County, Illinois, designated as crossing AAR/DOT #063 789M, railroad milepost 193.08-LS11.

Executed by the Illinois Department of Transportation this 25th day of June 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 Railway Company
USDOT#, MILEPOST	063 789M, 193.08-LS11
STREET, CITY, COUNTY	TR 95, near Bushnell, McDonough County
JURISDICTION (RDWY)	Mound Township Road District
LOCATION	Rural, Agriculture
STREET SURFACE	16' Oil & Chip, Fair Condition

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

TRACK (N-S)	SURFACE TYPE	SURFACE WIDTH	SURFACE CONDITION
Main	Full Depth Timber	32'	Fair

ROADWAY DATA: See Location Sketch

INTERSECTING ROADS:	None
TRAFFIC CONTROL	None
ADT & SPEED	100 Vehicles Per Day @ 55 MPH unposted
TRAFFIC TYPE	Passenger, School Buses, Hazardous Materials, Other
ADVANCE WARNING	Yes
PAVEMENT MARKING	No

RAILROAD DATA: See Location Sketch

FREIGHT TRAFFIC	19 Per day, Day & Night? Yes
PASSENGER TRAFFIC	4 Per Day @ 79 MPH
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	*	Clear	*	Crops
NW	*	Clear	*	"
SE	*	Clear	*	"
SW	*	Clear	*	"

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

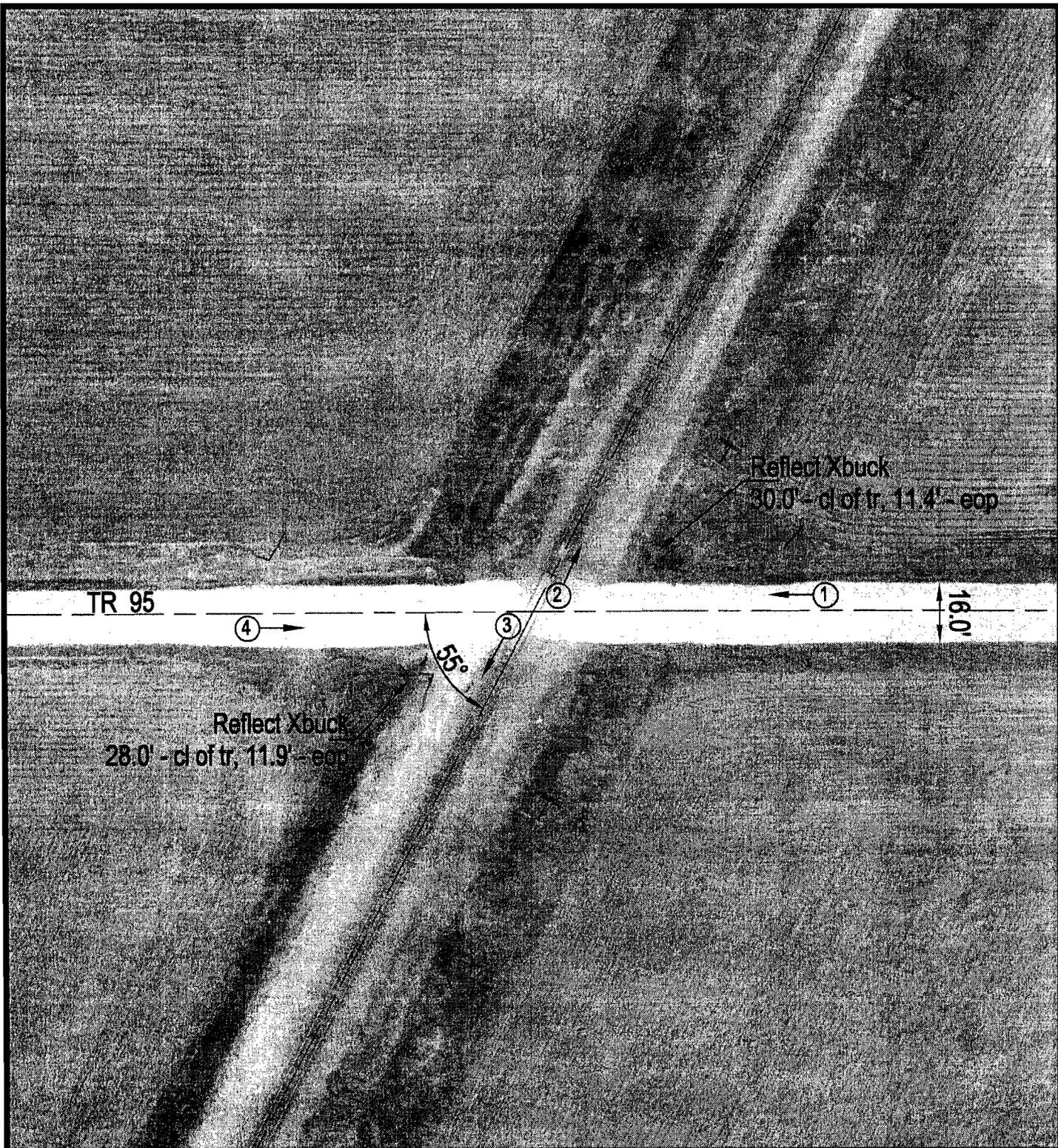
APPROACH GRADES: See Location Sketch

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

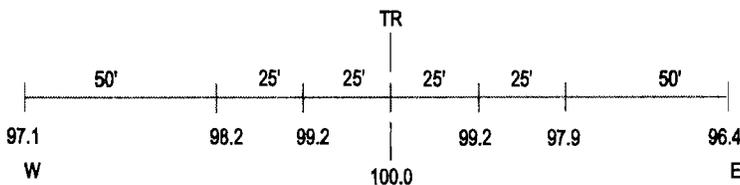
Distance measured from outermost rail.

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

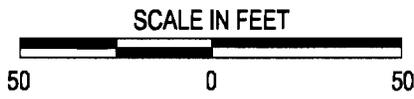
The Road District is not financially able to pay an equitable portion of the cost for the proposed improvements, and has submitted documentation attesting to the Road District's inability to pay. ICC Staff recommends that the Road District's portion of the installation costs for the automatic warning devices be paid by the Grade Crossing Protection Fund.



J:\MCDONOUGH\063789M\063789M.DWG 09/09/00 14:00 JLA



ROAD PROFILE



③ Photo Location

Crossing #: 063789M
 Location: McDonough Co., City of Bushnell (Near)
 Lat/Long: 40°31'42" / 90°31'38"
 Railroad: BNSF
 Street: TR 95
 Railroad Milepost: 193.08
 Crossing Protection: Sign

TOTAL MATERIAL COST		98,961	98,961

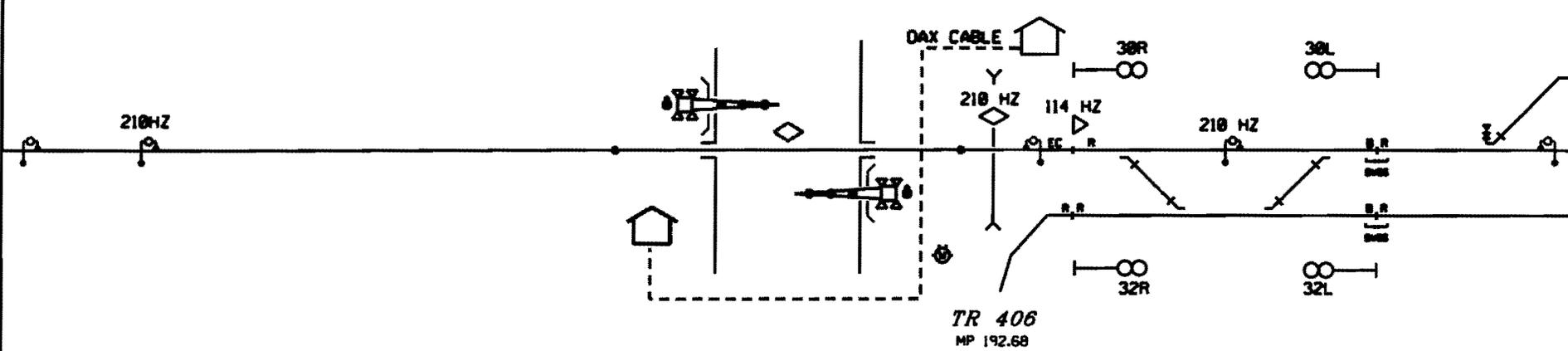
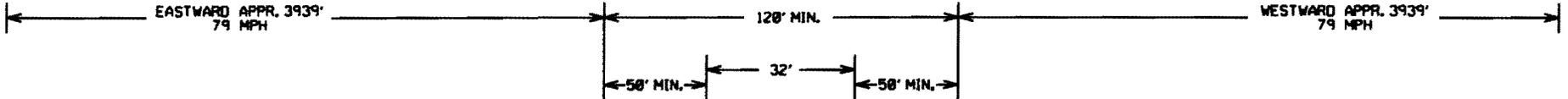
OTHER			

AC POWER SERVICE	1.0 EA	5,000	
CONTRACT ENGR.	1.0 EA N	5,000	
FILL DIRT	30.0 CY N	750	
SURFACE ROCK	30.0 CY N	750	
		<hr/>	
TOTAL OTHER ITEMS COST		11,500	11,500
PROJECT SUBTOTAL			337,726
CONTINGENCIES			33,772
BILL PREPARATION FEE			3,715
			<hr/>
GROSS PROJECT COST			375,213
LESS COST PAID BY BNSF			18,761
			<hr/>
TOTAL BILLABLE COST			356,452

The Burlington Northern & Santa Fe Railway Company

TO QUINCY ←

→ TO GALESBURG



TR 95
DOT * 063 789 M

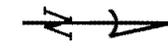
TR 406
MP 192.68

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.

BUSHNELL, IL.
TR 95
LS: 0011
M.P. 193.08
DOT * 063 789 M
DIVISION: CHICAGO
SUBDIVISION: BROOKFIELD
KANSAS CITY
NO SCALE
DATE: 01/14/09
FILE: 0011193.08.dgn
CMB

SA 1406

Exhibit B

Page 3

ILLINOIS COMMERCE COMMISSION
STIPULATED AGREEMENT 1393

Date APRIL 24, 2009

Mound Township Road District meeting on APRIL 24, 2009,
(Date)

Resolved to authorize HAROLD BAKER, JR.
(Name, Office)

to act as its designated agent in the processing of this Stipulated Agreement, and that Mound Township Road District is financially unable 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	6-29-09
------	---------

PROJECT INFORMATION:

Reporting Party:	BNSF Railway Company
Docket/Order #; Date:	T09-0081
Status Reports Due:	
Ordered Completion Date:	
Completion Report Due ¹ :	
AAR/DOT#, Milepost:	063 789M, MP 193.08 – LS11
Street, (in/near) City, County:	TR95 (n) Bushnell, McDonough
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 L. 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:	
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.
- 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	And	Chief of Data Services Illinois Department of Transportation 2300 S. Dirksen Parkway Springfield, IL 62764
---	------------	---

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

TYPE: (CHECK ONE)

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

DATE	6.29.09
------	---------

PROJECT INFORMATION:

Reporting Party:	McDonough County Highway Department
Docket/Order #; Date:	TOP-0081
Status Reports Due:	
Ordered Completion Date:	
Completion Report Due ¹ :	
AAR/DOT#, Milepost:	063 789M, MP 193.08 – LS11
Street, (in/near) City, County:	TR95 (n) Bushnell, McDonough
Railroad Company:	BNSF Railway Company

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

PROJECT MANAGER INFORMATION²:

Name:	Mr. Tom Hickman, P.E.
Title:	County Engineer
Representing:	McDonough County Highway Department
Street Address:	204 South Western Ave.
City, State, Zip:	Macomb, IL 61455
Office Phone:	309-833-4196
Office Fax:	309-837-1292
Cellular Phone:	
E-Mail Address:	highways@macomb.com

²Project Manager Information to be submitted by Roadway Authority

DESCRIPTION OF IMPROVEMENT(S) ORDERED:

- Reconstruction of the highway approaches 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:

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	And	Chief of Data Services Illinois Department of Transportation 2300 S. Dirksen Parkway Springfield, IL 62764
---	------------	---