

ORIGINAL

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

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FEB 22 2010

STATE OF ILLINOIS
DEPARTMENT OF TRANSPORTATION
PETITIONER,

**ILLINOIS COMMERCE COMMISSION
RAIL SAFETY SECTION**

v.

Docket No. T10- 0027

BNSF RAILWAY COMPANY,
RESPONDENT.

Petition for an Order requiring the BNSF Railway Company to either replace the grade separation structure carrying IL Route 81 (FAP 611) near Lynn Center in Henry County, Structure Number 037-0126, DOT/AAR No. 065 636R or require the Railroad to reimburse the Department for the replacement of the grade separation structure carrying Illinois Route 81 near Lynn Center in Henry County, Illinois.

PETITION

NOW COMES Petitioner, State of Illinois, Illinois Department of Transportation ("Department") by and through its attorney, Lisa M. Madigan, Attorney General of the State of Illinois, and Gloria M. Camarena, Special Assistant Attorney General, hereby petitions the Illinois Commerce Commission ("Commission") for an order requiring the BNSF Railway Company ("Railroad") to replace the grade separation structure ("Bridge") carrying IL Route 81 near Lynn Center in Henry County, Illinois. In support of the Petition, the Department states as follows:

1. The Commission has jurisdiction of the subject matter of this Petition and of the parties pursuant to Chapter 18 of the Illinois Commercial Transportation Law. (625 ILCS 5/18(c)-7401).
2. The grade separation structure of the existing Bridge carries Illinois Route 81.
3. Illinois Route 81 extends over the Railroad's single main line track and a subsidiary track by means of a highway overpass structure in the location commonly known as Lynn Center, in Henry County, at Railroad Mile Post 26.22 on the Barstow Subdivision, DOT/AAR No. 065-636R; hereinafter sometimes called the ("Bridge").

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4. The Bridge is in need of replacement due to the advancing deterioration of the existing structure. The structure is owned and maintained by the BNSF Railway Company. Illinois Route 81 at Railroad Mile Post 26.22 predates the Railroad or its predecessor railway's tracks. The original span structure was constructed by the Railroad or its predecessor in approximately 1916 and replaced in 1928.
5. An agreement dated December 1, 1969 between the Department and the Chicago, Burlington & Quincy Railroad (C.B.&Q.) to replace the structure, wherein maintenance for the structure was assigned to C.B.&Q. is marked as Exhibit 1 attached hereto and made a part hereof. The current structure was then built pursuant to the executed ICC Order (55452) dated April 22, 1970, authorizing the Department to reconstruct the structure. This Order is marked as Exhibit 2; and is attached hereto and made a part hereof.
6. The Railway structure carrying IL 81 over the BNSF tracks, in the area known as Lynn Center, has the combined deck/superstructure design commonly known as Precast Prestressed Concrete Deck Beam (PPC-DB). In comparison to other structure types, PPC-DB bridges deteriorate at a relatively rapid rate and has a history of problems throughout the State. This structure has deteriorated to the point that it has become extremely dangerous and a major safety concern for the Department.
7. An Agreement dated February 20, 1998, between the Department and BNSF for drainage improvements along the roadway (IL 81) on both sides of the structure, reaffirms the Railroad's maintenance responsibility for the structure. Section 12 of the Agreement is attached as Exhibit 3 and made a part of this Petition.
8. In December of 2003, the structure was inspected and had a National Bridge Inspection Standard (NBIS) rating of 5, which is the lowest rating in the "Fair Condition" category. Any Department structure of the PPC-DB type requires an increased inspection interval when the NBIS rating is less than "Fair Condition". On December 3, 2006, a bridge condition report indicated that this Bridge is in "Serious Condition" which demands a special inspection every six (6) months. These first generation PPC-DB bridges have been shown to be inherently subject to deterioration at a rapid rate, with minimal visual indications to be observed during routine inspections.
9. Summary of Bridge Inspection Appraisal data from November 26, 2001 to September 30, 2009 notes the progressive deterioration and concern the Department has for the public's safety as a result of the deteriorated condition of this Bridge. This Data is attached as Exhibit 4 and made a part of this Petition.
10. Correspondence between the Department's District Two office and BNSF, from April 2005 to October 2006, regarding the condition of and responsibility for the railway structure carrying IL 81 over the BNSF tracks, in the area known as Lynn

Center, is illustrative of the fact that this Bridge has been a subject of concern for the Department for the past several years due to the ongoing deterioration. While the Railroad is currently wholly responsible for the above referenced Bridge's maintenance and any resulting liability issues, the Department is always concerned over matters regarding public safety. The above referenced correspondence is attached hereto as Exhibit 5 and made a part hereof.

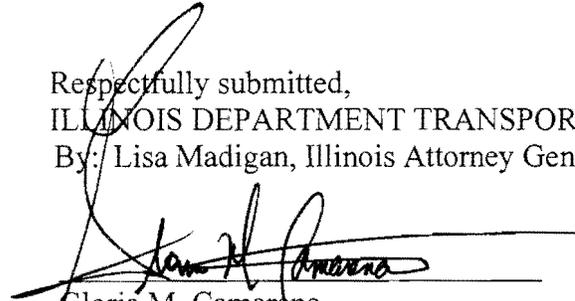
11. Because the Bridge on IL-81 has been posted with a reduced load limit of 25 tons, semi-trailer and grain trucks will be forced to use an alternate route to travel around this structure. This alternate route will cause these trucks to travel a greater distance than they normally would. This adverse travel burden will add approximately 20 miles to their usual route. Only motorists driving cars, motorcycles, and buses will still be able to use the Bridge until its closure for repairs or eventual replacement.
12. The Department's Central Office Bureau of Bridges and Structures conducted a Damage Inspection Report/Rating on April 21, 2009, which includes comments on the deteriorating Bridge and photo copies of the structure's deteriorating components. This Report is attached hereto as Exhibit 6 and made a part hereof.
13. Due to the history of potentially rapid deterioration of this PPC-DB structure design, the Department notified the Railroad in April of 2005 when the Bridge still had a "fair" rating so that the process of replacement could begin while the Bridge was still in fair condition. The structure is now rated "Serious Condition" and needs to be replaced on an urgent basis. The most recent inspection of the Bridge is attached hereto and marked as Exhibit 7 and made part of this Petition.
14. In order to put the bridge in the "Serviceable Condition" category, a deck replacement, and slope wall repair is required at a minimum. This is estimated to cost approximately \$1-1.5 million dollars. A complete replacement of the Bridge would cost approximately \$3-3.5 million dollars. This would likely include adjusting vertical clearance to 23' and possible construction of an access road for Railroad maintenance.

WHEREFORE, The Petitioner, State of Illinois Department of Transportation, prays that the Illinois Commerce Commission order, in accordance with its authority, the following:

1. That the project, as proposed, is warranted and authorized to promote public safety;
2. That BNSF Railway Company replace the grade separation structure carrying Illinois Route 81 over the BNSF Railway Company's railroad tracks near Lynn Center in Henry County;

3. That The Illinois Department of Transportation be reimbursed by the BNSF Railway Company for the replacement of the grade separation structure carrying Illinois Route 81 over the BNSF Railway Company's railroad tracks;
4. That a hearing be held at the Commission's offices in Springfield, Illinois within 30 days of this filing.
5. Any further relief that the Illinois Commerce Commission may deem appropriate.

Respectfully submitted,
ILLINOIS DEPARTMENT TRANSPORTATION
By: Lisa Madigan, Illinois Attorney General



Gloria M. Camarena
Special Assistant Attorney General

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**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

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DEPARTMENT OF TRANSPORTATION	:	
PETITIONER,	:	
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BNSF RAILWAY COMPANY,	:	
RESPONDENT.	:	
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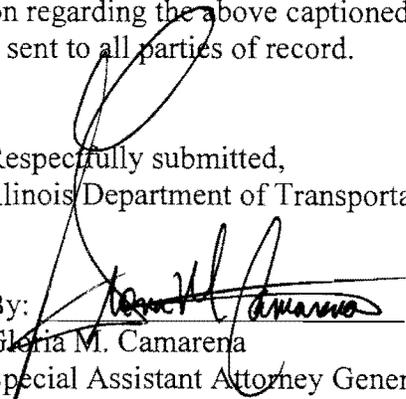
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NOTICE OF FILING

To ALL PARTIES OF RECORD:

PLEASE TAKE NOTICE that I have filed this 19th day of February 2010, the Illinois Department of Transportation's Petition regarding the above captioned matter. A copy of the aforementioned response has been sent to all parties of record.

Respectfully submitted,
Illinois Department of Transportation

By: 
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CERTIFICATE OF SERVICE

I, Gloria M. Camarena, an attorney, certify that I served a true and correct copy of the foregoing Petition in the above captioned matter, upon the parties to this proceeding on this 19th of February, 2010 at their respective addresses set forth:

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Gloria M. Camarena