

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

STATE OF ILLINOIS)	
DEPARTMENT OF TRANSPORTATION)	
)	
PETITIONER,)	
)	Docket No. T10-0027
v.)	
)	
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.

**BNSF RAILWAY COMPANY’S INTERROGATORIES
TO PETITIONER**

NOW COMES Respondent, BNSF Railway Company (BNSF), by its attorneys, DALEY MOHAN GROBLE, P.C., and propounds the following interrogatories to the Petitioner State of Illinois, Department of Transportation (IDOT) to be answered under oath within twenty-eight (28) days:

1. Please state your full name, address, date of birth, and occupation of the person answering the interrogatories for the Petitioner.

ANSWER:

2. Please state all facts and list all documents upon which IDOT relies upon in its contention that BNSF, or a predecessor company, agreed to reconstruct or rehabilitate the bridge in question.

ANSWER:

3. State all facts and list all documents upon which IDOT relies upon in its contention that BNSF, or a predecessor company, should replace, reconstruct or rehabilitate the bridge in question.

ANSWER:

4. Is the bridge in question eligible for any funding under the Highway Bridge Replacement and Rehabilitation Program (HBRRP) for replacement or rehabilitation of the bridge? If so, please state:

a.) the amount of funding that is available to be assigned to the replacement or rehabilitation of the bridge;

b.) any and all actions taken by IDOT to secure funding for the proposed bridge replacement or rehabilitation;

c.) the amount of monies from HBRRP that IDOT will pay toward the cost of replacement or rehabilitation of the bridge in question;

d.) if no actions have been taken by IDOT to secure HBRRP funding, please state each reason why IDOT has not sought HBRRP funding; and

e.) if no actions have been taken by IDOT to secure HBRRP funding, the name and address of the individual at IDOT knowledgeable about the reasons IDOT has not sought HBRRP funding.

ANSWER:

5. If the answer to the preceding interrogatory is no, please state:
- a.) each reason why the bridge in question is not eligible for HBRRP funding;
 - b.) the name and address of the person at IDOT knowledgeable about the reasons why the bridge in question is not eligible for HBRRP funding.

ANSWER:

6. Is the bridge in question eligible for any funding other than the Highway Bridge Replacement and Rehabilitation Program (HBRRP) for replacement or rehabilitation of the bridge? If so, please state:
- a.) the amount of funding that is available to be assigned to the replacement or rehabilitation of the bridge;
 - b.) any and all actions taken by IDOT to secure funding for the proposed bridge replacement or rehabilitation;
 - c.) the source of the funding for the proposed bridge replacement or rehabilitation;
 - d.) the amount of monies the said funding source that IDOT will pay toward the cost of replacement or rehabilitation of the bridge in question;
 - e.) if no actions have been taken by IDOT to secure non-HBRRP funding, please state each reason why IDOT has not sought that funding; and
 - f.) if no actions have been taken by IDOT to secure non-HBRRP funding, the name and address of the individual at IDOT knowledgeable about the reasons IDOT has not sought that funding.

7. If the answer to the preceding interrogatory is no, please state:

a.) each action taken by IDOT to determine that the bridge in question is not eligible for funding other than through HBRRP;

b.) the name and address of the person at IDOT knowledgeable about the actions taken by IDOT to determine why the bridge in question is not eligible for funding other than through HBRRP.

ANSWER:

8. Has anyone, to your knowledge, other than as indicated above, stated that funding for the rehabilitation or replacement of the bridge structure can be made available to finance the cost of IDOT's proposed rehabilitation or replacement of the bridge in question? If so,

a.) the type and amount of funding that can be made available;

b.) the name and address of each person or persons who have knowledge of the available funding.

ANSWER:

9. Did IDOT prepare the detailed design plans, specifications and prints for the type of bridge or highway overpass structure constructed pursuant to the December 1, 1969 Agreement noted in paragraph 5 of the Petition? If so, please state:

a.) the type of bridge designed and/or constructed;

b.) the name and address of the entity or contractor(s) who performed the construction of the bridge subject of the December 1, 1969 Agreement;

c.) the name and address of the entity who has possession of the design plans, specifications and prints to the bridge or highway overpass structure subject of the December 1, 1969 Agreement.

ANSWER:

10. If an entity other than IDOT prepared the detailed design plans, specifications and prints for the type of bridge or highway overpass structure constructed pursuant to the December 1, 1969 Agreement noted in paragraph 5 of the Petition, please state:

- a.) the type of bridge designed and/or constructed;
- b.) the name and address of the entity or contractor(s) who designed the bridge or highway overpass structure involved in the December 1, 1969 Agreement;
- c.) Whether IDOT approved the design plans, specifications, and/or prints for the bridge or highway overpass structure constructed in conjunction with the December 1, 1969 Agreement;
- d.) the name and address of any entity, including IDOT, who has possession of the design plans, specifications and prints to the bridge or highway overpass structure subject of the December 1, 1969 Agreement.

ANSWER:

11. Have the PPC-DB bridges referenced in paragraph 6 of the Petition been the subject of any studies, analyses, evaluation or critique by IDOT or any contractor on behalf of IDOT? If so, please state:

- a.) the identity of any such study, analysis or critique by date, location or otherwise;
- b.) the name and address of any individual or entity who performed such a study, analysis, evaluation or critique; and
- c.) whether any reports, correspondence or memoranda were generated as a result of any such study, analysis, evaluation or critique, and please attach true and complete copies of same to your answers to these interrogatories.

ANSWER:

12. In accordance with Illinois Supreme Court Rule 206(a)(1), identify the name and address of the person(s) knowledgeable at IDOT about the cost, life expectancy and/or deterioration rates of PPC-DB bridge or highway overpass structures, as set forth in paragraph 6 of the petition.

ANSWER:

13. Have bridge or highway overpass structures other than PPC-DB bridges referenced in paragraph 6 of the Petition been the subject of any studies, analyses, evaluation or critique by IDOT or any contractor on behalf of IDOT? If so, please state:

- a.) the identity of any such study, analysis or critique by date, location or otherwise;
- b.) the name and address of any individual or entity who performed such a study, analysis, evaluation or critique; and
- c.) whether any reports, correspondence or memoranda were generated as a result of any such study, analysis, evaluation or critique, and please attach true and complete copies of same to your answers to these interrogatories.

ANSWER:

14. In accordance with Illinois Supreme Court Rule 206(a)(1), identify the name and address of the persons knowledgeable at IDOT about the cost, life expectancy and/or deterioration rates of other bridge structures than PPC-DB bridges, as set forth in paragraph 6 of the petition.

ANSWER:

15. Please state all facts and list all documents upon which IDOT relies upon for its statement in paragraph 6 of the petition that “In comparison to other structure types, PPC-DB bridges deteriorate at a relatively rapid rate and has a history of problems throughout the State.”

ANSWER:

16. Does IDOT have any current design plans, specifications, schematics, and/or prints for either the rehabilitation or replacement of the bridge or overpass structure in question?

If so, please state:

- a.) the general nature of the plans or schematics; and
- b.) the name and address of the person(s) or entity(ies) who have prepared any such plans, specifications, schematics and/or prints;

ANSWER:

17. In accordance with Illinois Supreme Court Rule 206(a)(1), identify the name and address of the persons knowledgeable at IDOT about the current design plans, or other current prints, plans or schematics, for the bridge in question, for either rehabilitation or replacement.

ANSWER:

18. Itemize and state with specification all costs and expenses which you are claiming that BNSF should pay to rehabilitate or reconstruct the bridge in question, including for each cost or expense the description, reason and/or purpose for each loss or expense. Please attach all cost

estimates, proposals, or expense statements, including the name and address of the person or entity who prepared the same.

ANSWER:

19. Have the alternative routes to Illinois Route 81 referenced in paragraph 11 of the Petition been the subject of any traffic or other studies, analyses, evaluation or critique by IDOT or any contractor on behalf of IDOT? If so, please state:

- a.) the identity of any such study, analysis or critique by date, location or otherwise;
- b.) the name and address of any individual or entity who performed such a study, analysis, evaluation or critique; and
- c.) whether any reports, correspondence or other memoranda were generated as a result of any such study, analysis, evaluation or critique, and please attach true and complete copies of same to your answers to these interrogatories.

ANSWER:

20. Has Illinois Route 81 referenced in the Petition been the subject of any traffic or other studies, analyses, or evaluation by IDOT or any contractor on behalf of IDOT? If so, please state:

- a.) the identity of any such study, analysis or evaluation by date, location or otherwise;
- b.) the name and address of any individual or entity who performed such a study, analysis, evaluation or critique; and
- c.) whether any reports, correspondence or other memoranda were generated as a

result of any such study, analysis, evaluation or critique, and please attach true and complete copies of same to your answers to these interrogatories.

ANSWER:

21. Pursuant to Supreme Court Rule 213(f)(1), please identify the name, current address and current telephone numbers of all lay witnesses or those witnesses giving only fact or lay opinion testimony, who will testify at trial on behalf of Plaintiff, and the subjects of each individual's testimony.

ANSWER:

22. Pursuant to Supreme Court Rule 213(f)(2), please identify the name, current address and current telephone numbers of all independent expert witnesses or those witnesses giving expert testimony who are not the party, the party's current employee, or the party's retained expert who will testify at trial on behalf of Plaintiff, and the subjects of each individual's testimony. If applicable, for each individual identified, provide the following:

- (a) The subject matter on which the independent expert witness is expected to testify;
- (b) The conclusions and opinions of the independent expert witness and the bases for each opinion and conclusion;
- (c) The qualifications of each independent expert witness;

- (d) Any reports prepared by the independent expert witness; and
- (e) A list of the documents each such independent expert witness is relying upon.

ANSWER:

23. Pursuant to Supreme Court Rule 213(f)(3), please identify the name, current address and current telephone numbers of each controlled expert witness whom the plaintiff will call at trial and for each, provide the following:

- (a) The subject matter on which each witness will testify;
- (b) The conclusions and opinions of each witness;
- (c) The bases of each conclusion and opinion;
- (d) The qualifications of each witness;
- (e) Attach to the plaintiff's answers to these interrogatories any reports prepared by each witness about this case.

ANSWER:

DALEY MOHAN GROBLE, P.C.

By: s/ Robert J. Prendergast
Robert J. Prendergast

Robert J. Prendergast
Kevin W. Baldwin
Raymond H. Groble III
DALEY MOHAN GROBLE, P.C.
55 W. Monroe, Suite 1600
Chicago, IL 60603
(312) 422-9999

CERTIFICATE OF SERVICE

I, Robert J. Prendergast, an attorney, hereby certify that on the **22nd day of March, 2010**, I caused the foregoing **BNSF RAILWAY COMPANY'S INTERROGATORIES TO PETITIONER**, to be served on attorneys/parties of record by e-filing the same with the Illinois Commerce Commission and by forwarding the same to the following at the email or street addresses listed below, before 5:00 p.m.:

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

Gloria Camarena
Assistant Chief Counsel—IDOT
300 West Adams
2nd Floor
Chicago, Illinois 60606
gloria.camarena@illinois.gov

s/Robert J. Prendergast _____

Robert J. Prendergast