STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

STATE OF ILLINOIS DEPARTMENT OF TRANSPORTATION PETITIONER/CROSS RESPONDENT, v. BNSF RAILWAY COMPANY, RESPONDENT/CROSS PETITIONER.	))))))))))))	Docket No. T10-0027

Cross-Petition for an order requiring the closure and removal of 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, alternatively, for a temporary closure to motor vehicle use of the grade separation structure carrying Illinois Route 81 near Lynn Center in Henry County, Illinois, until funding can be secured for replacement or rehabilitation.

CROSS-PETITION

NOW COMES Respondent/Cross-Petitioner, BNSF Railway Company ("BNSF"), by its attorneys, Daley Mohan Groble, P.C., and for its Cross-Petition against the State of Illinois, Department of Transportation (IDOT), to the Illinois Commerce Commission, states at follows:

1. BNSF is a Delaware Corporation with its principal place of business in Ft. Worth, Texas, and is authorized to transact business in the State of Illinois and transacts business as a common carrier by railroad in interstate and intrastate commerce.

2. Cross-Respondent is the Department of Transportation of the State of Illinois, commonly known as "IDOT", which has responsibility and authority by federal and state law to, inter alia, inspect, monitor and assess bridge structures and highways in the State of Illinois.

3. Cross-Respondent's responsibility and authority includes prioritizing, rating, and identifying for rehabilitation and replacement for the Federal Highway Administration (FHWA) and other agencies, bridge structures, including those over railroad tracks, within the State of Illinois, regardless of ownership or responsibility for maintenance of the structure, including for the Highway Bridge Replacement and Rehabilitation Program (HBRRP) under 23 CFR Sec. 650.401 et. seq.

4. BNSF operates a main line track in a generally north/south direction by compass though Henry County, Illinois, over which BNSF provides freight rail service.

5. At or near the area known as Lynn Center, there exists a bridge structure running generally in an east/west direction above BNSF's main line trackage at or near BNSF milepost 26.22 on the Barstow subdivision. The aforesaid bridge structure is designated as DOT No. 065 636R, and was most recently rebuilt, upon information and belief, in the early 1970's. A true and accurate copy of the track chart for the area in attached hereto as Exhibit A and by this reference made a part hereof.

6. IDOT alleges in its petition that the bridge at Lynn Center has been rated by IDOT to be in "serious condition". On its own bridge inventory sheet, IDOT sets forth that the bridge is eligible for HBRRP funding. See Exhibit B attached hereto and by this reference made a part hereof.

7. To date, IDOT has not proposed any funding for the replacement or rehabilitation sought in its petition, but rather seeks to have BNSF pay for entire cost of the replacement of the bridge structure.

8. IDOT chose the design of the current PPC-DB bridge at Lynn Center, and built and paid 100% of the cost of the current bridge structure.

9. IDOT, upon its own assessment, has set forth that the bridge design it chose, built and paid for deteriorates at a relatively rapid rate and has had a history of problems throughout the State of Illinois. See paragraph 6 of the Petition and the correspondence of December 27, 2005, attached hereto as Exhibit C and by this reference made a part hereof.

10. IDOT did not apprise any entity that maintains these types of bridges of the design flaws until many years after it had chosen the design and built the structures.

11. Illinois Route 81 is a relatively short state highway which extends generally in an east/west direction and is only approximately 23 miles in length connecting state highways 150 and 78. See Exhibit D attached hereto and by this reference made a part hereof.

12. Illinois Route 17 is located approximately 8 miles south of Route 81 and runs generally east/west and parallel to Route 81 in the area. Illinois 17 is a more substantial state route which extends entirely across the width of Illinois, and it similarly forms a connection between Illinois highways 150 and 78, along with US Route 34. See Exhibit D.

13. Interstate 80 is located approximately 10 miles north of Route 81 and runs generally east/west and parallel to Route 81 in the area. Interstate 80 is a much more substantial route which extends the entirely across the width of Illinois, and it similarly forms a connection between Illinois highways 150 and 78. See Exhibit D.

14. Lynn Center is located on Route 81 approximately one mile east of Interstate 74 and one mile west of state Route 150. Both Interstate 74 and Route 150 run generally in a north/south direction in the area.

15. IDOT's highway maps published on its own website for the most recent available year indicate the north/south traffic flow is substantially greater than the east/west traffic flows in the area within several miles of the bridge in question. The north/south traffic count for

Interstate 74 at and near Route 81 is over 14,000 vehicles per day, while the north/south vehicle count for Route 150 in that area is approximately 3,000 vehicles per day, totaling over 17,000 north/south vehicles daily in that area. See Exhibit E attached hereto and by this reference made a part hereof.

16. By contrast, the east/west traffic for Route 81 is approximately 1700 vehicles per day west of Interstate 74 and approximately 2400 east of Interstate 74.

17. The vast majority of the commerce and traffic in and near the area travels in a north/south direction, and would be unaffected by the closure of Route 81 near Lynn Center.

18. The traffic moving east of Interstate 74 along Route 81 will not be significantly affected by the closure of the subject bridge structure, and all such traffic will be able to access I-74 and north/south routes in the area.

19. Both Illinois Route 17 and Interstate 80 provide reasonable alternative east/west routes in the area to travel between Illinois Routes 78 and 150, should east/west travel between those routes be absolutely necessary.

20. Additionally, Township Road N 900th Avenue (a/k/a Township Road 287) crosses BNSF's tracks at grade about 1 mile south of Route 81 (DOT# 065634C), which has flashing light warning devices. Many vehicles using Route 81 at or near Lynn Center can utilize that crossing to pass through the area with relative ease via East Street (a/k/a E 400th Street). See Exhibit F attached hereto and by this reference made a part hereof.

21. The alternative routes will provide for passage over any of BNSF's trackage in the area for public travel in the vicinity of the subject bridge structure. Closure and/or removal of the aforesaid bridge structure will pose no significant inconvenience to the traveling public.

22. To the extent required by 625 ILCS 5/18c-7401(3), Cross-Petitioner seeks permission from the Illinois Commerce Commission to close and remove the bridge structure at BNSF milepost 26.22 at or near Lynn Center, or alternatively to temporarily close the structure until funding for its rehabilitation and reconstruction becomes available.

WHEREFORE, BNSF Railway Company prays that the Illinois Commerce Commission (1) set the aforesaid matter for public hearing, (2) thereafter enter an order authorizing closure and removal of the bridge structure located above the tracks and right of way of BNSF Railway Company at milepost 26.22 and Route 81, at or near Lynn Center, in Henry County, Illinois, and authorizing permanent closure of that overhead structure crossing, (3) alternatively for temporary closure of Route 81 at and near the bridge structure in question until such funding for rehabilitation or replacement becomes available, and (4) for costs and expenses regarding same to be borne by the Illinois Department of Transportation.

BNSF RAILWAY COMPANY

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

Robert J. Prendergast
Kevin W. Baldwin
Daley Mohan Groble, P.C.
Attorney for Petitioner
55 West Monroe
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rprendergast@daleymohan.com

VERIFICATION

Chad Scherwinski, under penalties provided pursuant to 735 ILCS 5/1-109, certifies that he is Manager of Public Projects for BNSF Railway Company, the petitioner herein, that he is duly authorized by said railroad company to sign, verify and file the foregoing cross-petition, and that the matters set forth in said cross-petition are true and correct to the best of his knowledge, information and belief.

s/ Chad Scherwinski
Chad Scherwinski

PROOF OF SERVICE

Robert J. Prendergast, an attorney, certifies that on the 14th day of April, 2010, he caused to be served, a true and correct copy of the **CROSS-PETITION** upon the following by the indicated method of service:

John Saladino (via email)
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, Illinois 62701
jsaladino@icc.illinois.gov

Gloria M. Camarena (via email)
IDOT
300 West Adams—2nd Floor
Chicago, Illinois 60606
gloria.camarena@illinois.gov

s/ Robert J. Prendergast
Robert J. Prendergast

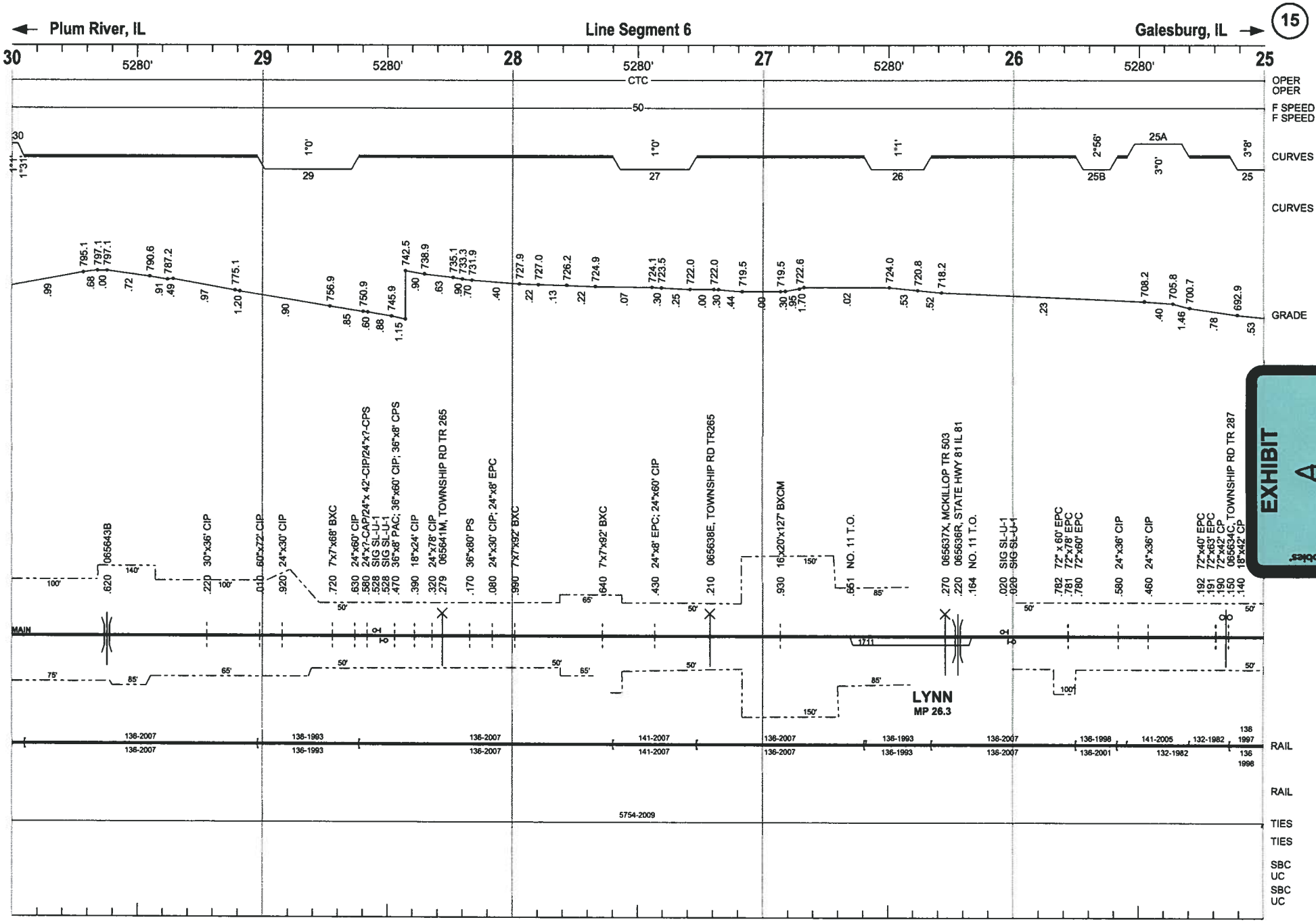

EXHIBIT A

BNSF Railway Company - System Maintenance and Planning

Legend

BAR015.DGN Revised: 3/11/2010

Barstow Subdivision

ENGR DL TRACKCHART UPDATES

Illinois Department of Transportation
Structures Information Management System
Structure Summary Report

Date: 11/11/2009
Page: 1

Structure Number: 037-0126 **District:** 2

Inventory Data

Facility Carried: ILL 81 **Bridge Name:**
Feature Crossed: B.N. RAILROAD **Location:** AT LYNN CENTER
Bridge Remarks: MAINTAINENCE AGREEMENT STATES RAILROAD IS RESPONSIBLE FOR MAINTANCE COSTS
Bridge Status: 2 OPEN - LOAD POSTED **Status Date:** 10/2009
Status Remarks: POSTED FOR COMBINATION VEHICLE, 25 TONS
Maint County: 037 HENRY **Maint Township:** 16 LYNN
Maint Responsibility: 16 I.D.O.T. RAILROAD
Service On/Under: 1 HIGHWAY 2 / RAILROAD
Reporting Agency: 1 I.D.O.T. - BUREAU OF MAINTENANCE **Skew Angle:** 14 D 47 M 00 S
Main Span Matl/Type: 5 PRESTRESS CONCRETE / 05 BOX BEAM OR GIRDER-MULTIPLE
Nbr Of Main Spans: 3 **Nbr Of Approach Spans:** 0
*****Approaches*****
Near #1 Matl/Type: /
Near #2 Matl/Type: /
Far #1 Matl/Type: /
Far #2 Matl/Type: /
Median Width/Type: 0 Ft. / 0 None
Guardrail Type L/R: 0None / 0 None
Toll Facility Indicator: 0 No Toll

Sufficiency Rating: 26.2
HBRRP Eligible: Yes
Replaced By: 000-0000
Replaces: 037-9909
Last Update Date: 10/27/2009
Parallel Structure: None
Multi-Level Structure Nbr:
Skew Direction: L Left
Structure Flared: No
Historical Significance: No
Border Bridge State:
Bdr State SN:
Bdr State % Responsibility: 0
Structural Steel Wt 0
Substructure Material:
Rated By: 2 IDOT
Inventory Rating: 8(214)
Operating Rating: 15.7(228)
Load Rating Date: 10/01/2009
Design Load: 02 HS20

Structure Length: 161.5
AASHTO Bridge Length: 99.9
Length of Long Span: 54.4
Bridge Roadway Width: 44.4
Appr Roadway Width: 40.0
Deck Width: 46.5
Sidewalk Width Right: 0.0
Sidewalk Width Left: 0.0
Navigation Control: N N/A
Navigation Horiz Clear: 0
Navigation Vert Clear: 0
Culvert Fill Depth: 0.0
Number Culvert Cells: 0
Culvert Opening Area: 0.0
Culvert Cell Height: 0.00
Culvert Cell Width: 0.00
Rate Method: 1 LOAD FACTOR
Railroad Crossing Info
Crossing 1 Nbr: 065636 R
Crossing 1 Nbr:
RR Lateral Underclear: 12.0
RR Vertical Underclear: 23 Ft 00 In

Latitude: 41 D 17 M 44.51 S **Longitude:** 90 D 21 M 44.51S
Deck Structure Type: E PCAST PRES CN DK BM **Deck Structure Thickness:** 21 **SD:** Y **FO:** N
Sidewalks Under Structure: 0 None

Key Route On Data

Key Route Nbr: FEDERAL-AID SECONDARY 0223 **Station:** 003.880
Appurtenances Main Route 00.000 **Segment:**
Inventory County: 037 HENRY **Linked:** Y
Township/Road Dist 16 LYNN **Natl. Hwy System:** Not on NHS
Municipality 0000 **Inventory Direction:** E East
Urban Area: None 0000 **Curr AADT Yr/Count:** 2007 / 1700
Functional Class: 50 MAJOR COLLECTOR (NON-URBAN **Est Truck Percentage:** 13
**** CLEARANCES **** South/East North/West **Number Of Lanes:** 2
Max Rdwy Width: 044.0 **One Or Two Way:** 2 Two-Way
Horizontal: 044.0 000.0 **Bypass Length:** 16
Future AADT Yr/Cnt: 2023 / 2150
Designated Truck Rte: CLASS II
Lateral: **Special Systems:** No

Key Route Under Data

Station:
Segment:
Linked:
Natl. Hwy System:
Inventory Direction:
Curr AADT Yr/Count: /
Est Truck Percentage:
Number Of Lanes:
One Or Two Way:
Bypass Length:
Future AADT Yr/Cnt: /
Designated Truck Rte:
Special Systems:

South/East North/West

*** Marked Route On Data ***

	Designation	Kind	Number
Route #1:	1 Mainline	3 State Highway	0081
Route #2:			
Route #3:			

*** Marked Route Under Data ***

Designation	Kind	Number

Illinois Department of Transportation
Structures Information Management System
Structure Summary Report

Structure Number: 037-0126 **District:** 2

Data Related to Inspection Information

*** Inspection Intervals ***

Routine NBIS:	12 MOS	Underwater:	0 MOS
		Special:	Y

*** Maximum Allowable Posting Limits ***

One Truck At A Time:		Combination Type 3S-1:	25 Tons
Single Unit Vehicles:	Tons	Combination Type 3S-2	25 Tons

Bridge Posting Level: 4 < 10% Below Legal Loads

Inspection/Appraisal Information

Inspection Date: 09/30/2009 Inspection Temperature: 60Deg. F

Deck:	2	CRITICAL CONDITION - MAY REQUIRE CLOSURE
Superstructure:	2	CRITICAL CONDITION - MAY REQUIRE CLOSURE
Substructure:	6	SATISFACTORY CONDITION - MINOR DETERIORATION
Culvert:	N	NOT APPLICABLE
Channel and Protection:	N	NOT APPLICABLE
Structural Evaluation:	2	INTOLERABLE - HIGH PRIORITY FOR REPLACEMENT
Deck Geometry:	9	SUPERIOR TO PRESENT DESIRABLE CRITERIA
Underclearance-Vert/Lat.:	5	BETTER THAN ADEQUATE TO BE LEFT IN PLACE
Waterway Adequacy:	N	NOT APPLICABLE
Approach Roadway Align:	8	EQUAL TO PRESENT DESIRABLE CRITERIA
Bridge Railing Appraisal:	2	Doesn't Meet Standards
Approach Guardrail:	232	Not Acceptable Acceptable Not Acceptable
Pier Navig Protection:	N	N/A

Deck Wearing Surf:	G	BITUMINOUS OVERLAY
Deck Membrane:	A	WATERPROOF MEM SYST
Deck Protection:	J	NONE
Total Deck Thick:	25.0	
Last Paint Date:		

** Actual Posted Limits **

Single Unit Vehicles:	25	Tons
Combination Type 3S-1:	25	Tons
Combination Type 3S-2:	25	Tons
One Truck At A Time:		
Last Paint Type:		

Underwater Inspection/Appraisal Information

Inspection Date: Inspection Category:
Temperature: Inspection Method:
Appraisal Rating:

Scour Critical Information

Rating: Evaluation Method:
Analysis Date:

Miscellaneous

Microfilm Data Recorded: Yes

Construction Information

Year:	1971	Original	Reconstructed
Route:	SBI-81	Sta: 44+64.5	Sta:
Section Nbr:	101-VB		
Contract Nbr:			
Fed Aid Pr#:	00000000000000		
Built By:	1	I.D.O.T.	

Waterway Information

Flood Design Frequency:	0	YRS	Drainage Area:	0	Acre
Flood Design Q (CFS):	0				
Flood Design Nat H W E:	0		Flood Base Q (CFS):	0	
Flood Des Open Prop:	0	SF	Flood Base Nat H W E:	0	

Illinois Department of Transportation
Division of Highways / Region 2 / District 2
819 Depot Avenue / Dixon, Illinois / 61021-3500
Telephone 815/284-2271

OPERATIONS
BNSF Railway
Barstow Subdivision
DOT/AAR No. 065636R
Railroad Milepost 26.22

December 27, 2005

Mr. Mark Leeman
BNSF Railway
Manager of Public Projects
80 - 44th Avenue NE
Minneapolis, Minnesota 55421

Dear Mr. Leeman:

Attached are photographs from our latest inspection of the bridge (Structure Number 037-0126) that carries Illinois Route 81 over the BNSF tracks at Lynn Center, Illinois. This bridge, which was built in 1971, has a three span, concrete box beam superstructure. Each span is approximately 53 ft. long, 46 ft. wide, and is composed of 12, 21 inch deep, precast, prestressed, concrete box beams.

Within the last seven years, The Illinois Department of Transportation (IDOT) has become increasingly concerned about the condition of our prestressed box beams. Box beams on two separate structures have failed abruptly without warning. Fortunately, no one was injured since these beams were exterior beams, over water, which carried no direct wheel load.

After the first incident, IDOT hired researchers from the University of Illinois to inspect several beams that were taken out of service due to deterioration. They found that the highly stressed tendons in these prestressed products corrode at a much faster rate than the adjacent reinforcement that is unstressed prior to the time the concrete is cast. They concluded that by the time evidence of corrosion begins to manifest itself through spalling of the bottom corners of the beams, the prestressing tendons above the spalled areas have lost all load carrying capacity.

The Lynn Center Bridge is maintained by your company through a joint agreement with the State Of Illinois. At the time of our last inspection on December 2, 2005, we gave the superstructure a poor rating (4 on a scale of 1 to 9). This rating was done in accordance with criteria that are used nationwide to evaluate deck beams for federally mandated inspections. As a matter of policy, whenever the superstructure rating of one of our bridges

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drops to 4, it is required to be inspected by a licensed structural engineer. After the inspection is completed, the bridge is evaluated to determine its remaining capacity. In the past, we have had to put load restrictions on a number of our box beam bridges and then let out for bids emergency contracts to replace all of the beams, in kind, so the weight restrictions can be lifted.

We request that you schedule the superstructure for an inspection by a structural engineer in order to evaluate its remaining capacity and to see if he/she concurs with our NBIS (National Bridge Inspection Standard) rating.

This has become a matter of public safety so please address this situation in a timely manner and inform us of your plans and schedule.

If you have any questions please contact Rich Mardauss at 815-284-5398 or e-mail him at mardaussrw@dot.il.gov.

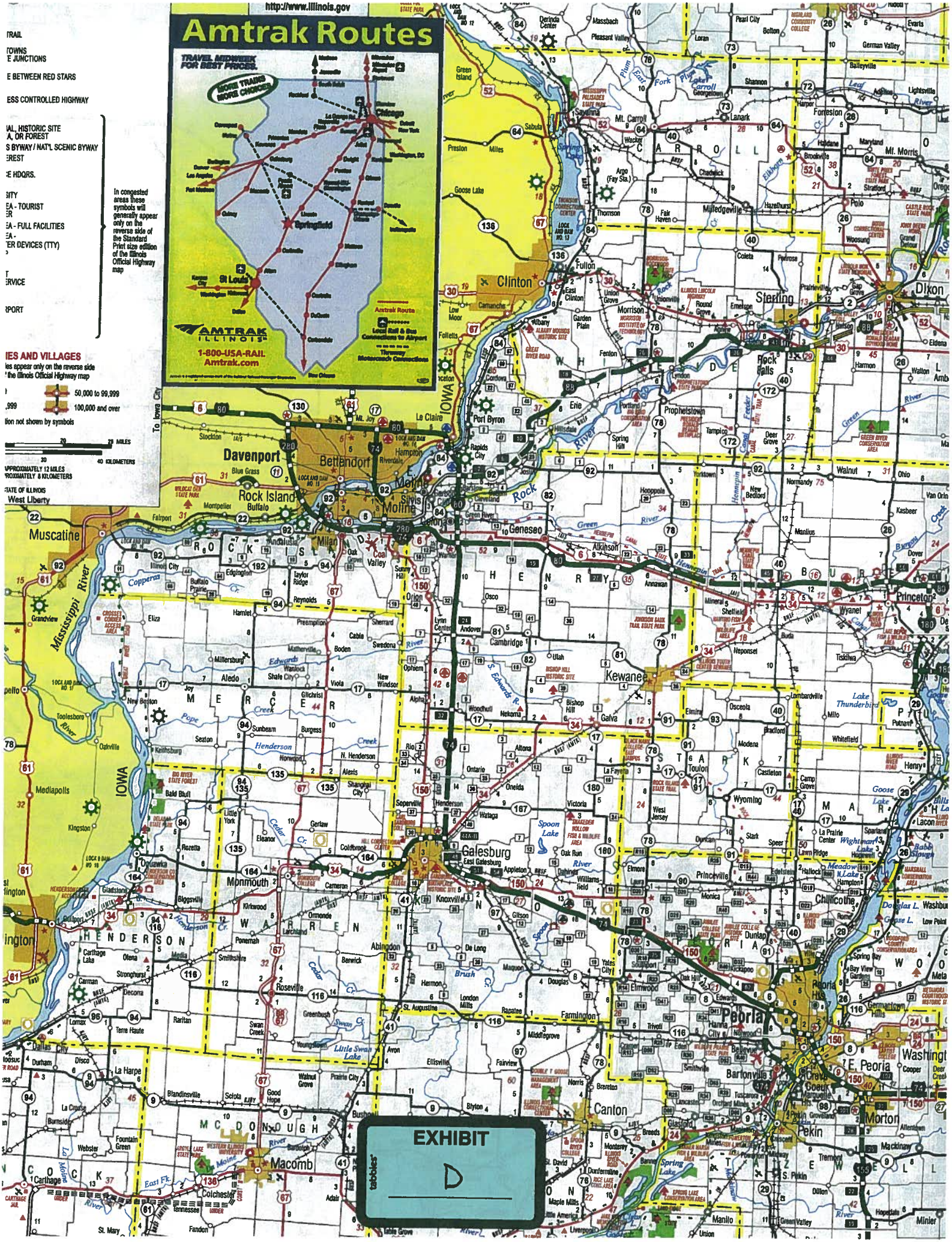
Sincerely,

Gregory L. Mounts, P.E.
Deputy Director of Highways,
Region Two Engineer

Kevin Marchek M.E.

By: Kevin Marchek
Engineer of Operations

c: Louis Welte, BNSF Structures Supervisor
RM-12-02-05:sls



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E JUNCTIONS
E BETWEEN RED STARS
ESS CONTROLLED HIGHWAY
IAL, HISTORIC SITE
A, OR FOREST
S BYWAY / NAT'L SCENIC BYWAY
EREST
E HDQRS.
SITY
EA - TOURIST
ER
EA - FULL FACILITIES
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TER DEVICES (TTY)
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In congested areas these symbols will generally appear only on the reverse side of the Standard Print size edition of the Illinois Official Highway map
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tion not shown by symbols
MILES
KILOMETERS
APPROXIMATELY 12 MILES
PROXIMATELY 8 KILOMETERS
STATE OF ILLINOIS
West Liberty
To Iowa City
Davenport
Bettendorf
Rock Island
Moline
Muscatine
Clinton
Sterling
Dixon
Rock Falls
Prophetstown
Geneseo
Kewanee
Galesburg
Monmouth
Peoria
Canton
Pekin
Morton
Macomb
Princeton
Chillicothe
Washington
Mississippi River
Rock River
Green River
Henderson Creek
Spoon Lake
Lake Thunderbird
Goose Lake
Wightman Lake
Meadow Lake
Spring Lake
Little Swan Lake
Lake Carroll
Mt. Carroll
Mt. Morris
Savanna
Fulton
Morrison
Erie
Port Byron
Le Claire
Hampton
Silvis
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Manito
Tremont
Mackinaw
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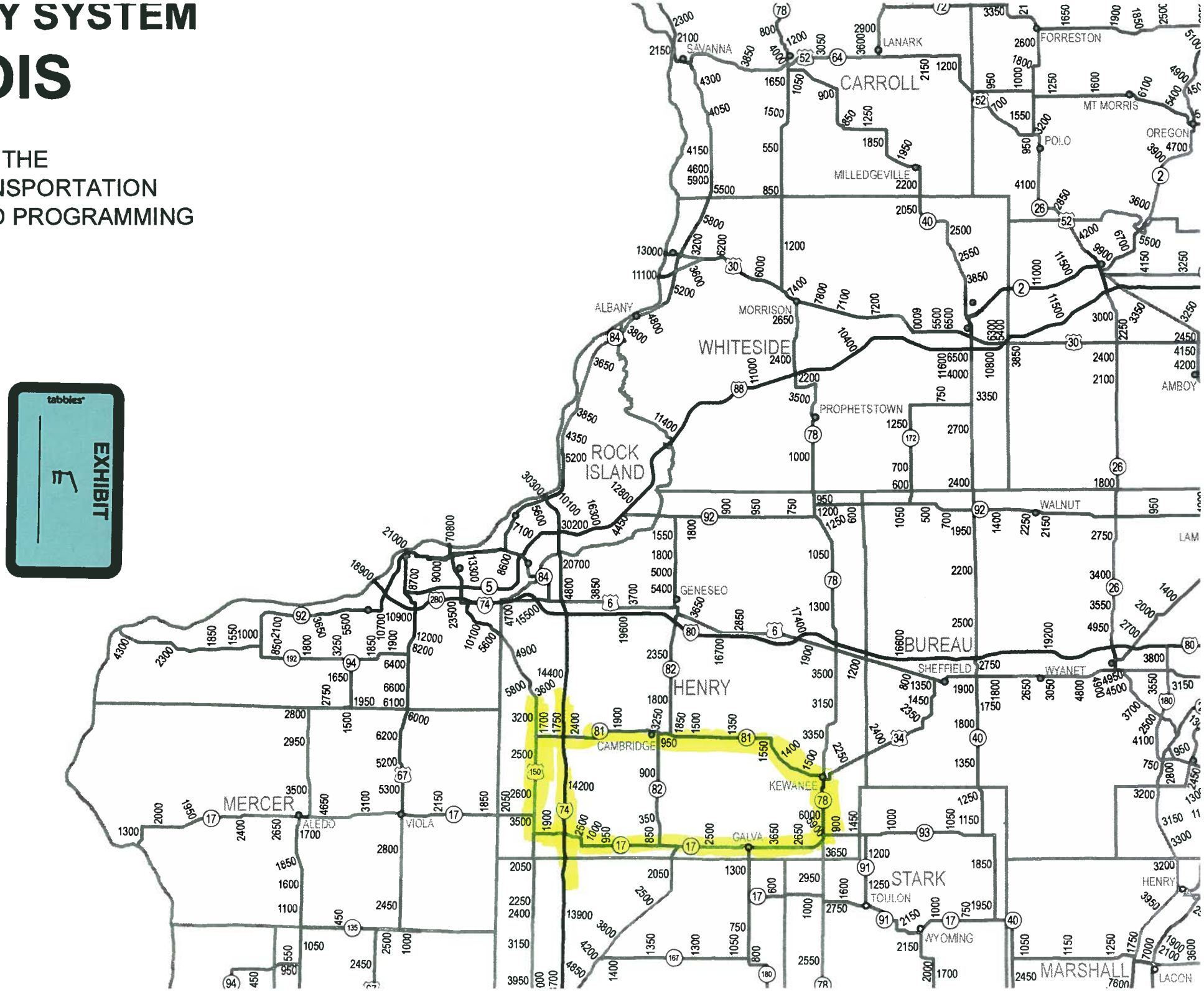

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