

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

The Department of Transportation of the State of Illinois, for and :
on behalf of the People of the State of Illinois, :
Petition, :

v. : T09-0139

Keokuk Junction Railway Company, an Iowa Corporation, n/k/a :
Peoria & Western Railway; Pioneer Resources, Inc., an Iowa :
Corporation; First of America Bank-Illinois, N.A.; and Unknown :
Owners generally, :
Respondents. :

Petition for approval of the taking or damaging of certain :
properties owned by a common transportation carrier in Hancock :
County, Illinois by exercising the right of eminent domain. (Parcel :
No. 6136106; 6136106TE; 6136109; 6136109TE-1; 6316109TE- :
2 – Job. No. R-91-014-02). :

ORDER

By the Commission:

PROCEDURAL HISTORY

On December 8, 2009, the Department of Transportation of the State of Illinois (“Petitioner”) filed the above referenced Petition with the Illinois Commerce Commission (“Commission”) naming as Respondents Keokuk Junction Railway Company, an Iowa Corporation, n/k/a Peoria & Western Railway; Pioneer Resources, Inc., an Iowa Corporation; First of America Bank-Illinois, N.A.; and unknown owners generally (collectively “Respondents” or the “Railroad”) to approve the taking of certain property in Hancock County, Illinois, by exercising the power of eminent domain (Parcel Nos. 6136109; 6136106TE; 6136109; 6136109TE – Job No. R-91-014-02).

Pursuant to notice as required by law and the rules and regulations of the Commission, a hearing on the Petition was held on June 8, 2010, before a duly authorized Administrative Law Judge of the Commission at the Commission’s office in Springfield, Illinois. Appearances were entered on behalf of Petitioner, Respondents and a staff member of the Railroad Section of the Transportation Division of the Commission (“Staff”). At the conclusion of the June 8, 2010 hearing, the case was marked “Heard and Taken.”

PETITIONER'S EVIDENCE

Sharon Haasis, the acting Condemnation Engineer for District 6 of the Illinois Department of Transportation testified and for Petitioner presented evidence that Petitioner is engaged in a project to improve the roadway and bridge structure along Ill. Route 96 in Hancock County. She stated that the land legally described in Exhibits A, B, C and D attached to this Order is required to construct the project. She further testified that the improvement is for public use, is a public highway and is necessary to the public convenience and necessity. The property interests requested and required to construct the improvement include both permanent and temporary easements. Ms. Haasis also testified that Petitioner has been unable, at this time, to acquire from the Railroad the interests in the property it needs to proceed with construction of the project.

RAILROAD AND STAFF POSITIONS

The Railroad did not present any witnesses and indicated that it will execute documents sufficient to convey to Petitioner the interests in the property it needs to construct the improvement project. Staff has no objections to the Department's Petition.

COMMISSION ANALYSIS AND CONCLUSION

The Commission is of the opinion that it is fair and reasonable to grant the Illinois Department of Transportation's Petition for authority for the taking of certain property in Hancock County, Illinois, legally described in Exhibits A, B, C and D attached hereto, by exercising the power of eminent domain, as the taking is needed for the safety and convenience of the traveling public.

FINDINGS AND ORDERING PARAGRAPHS

The Commission, after a review of the entire record, finds that:

- (1) the Commission has jurisdiction of the subject matter hereof and the Parties hereto;
- (2) the recitals of fact set forth in the prefatory portion of this Order are supported by the evidence of record and are hereby adopted as findings of fact;
- (3) Petitioner seeks to acquire permanent easements in Parcel No. 6136106 and Parcel No. 6136109, legally described in Exhibits A and C respectively, and temporary easements in Parcel No. 6136106TE and Parcel No. 613609TE, legally described in Exhibits B and D respectively, all attached hereto and incorporated herein by reference, presently owned by the Railroad, to construct the improvement project and to better serve the traveling public and to enhance public safety and convenience;

- (4) Petitioner presented evidence as to the ownership of the property by Respondents, and the efforts made to obtain the necessary easements;
- (5) the evidence shows that construction of the improvement project can be carried out without substantial interference with the Railroad's conduct of its rail carrier operations;
- (6) the Petitioner should be granted authority to exercise its power of eminent domain to acquire the easements set forth in Finding (3) hereinabove.

IT IS THEREFORE ORDERED that the approval of the Illinois Commerce Commission be, and the same is hereby, granted to the Department of Transportation of the State of Illinois, for the purpose of exercising its power of eminent domain to acquire the easements set forth in Finding (3) hereinabove.

IT IS FURTHER ORDERED that subject to Sections 18c-2201 and 18c-2206 of the Law, this is a final decision subject to the Administrative Review Law.

By Order of the Commission this 18th day of August 2010.

JUDGE
SECTION CHIEF
ORDERS SUPERVISOR



MANUEL FLORES
ACTING CHAIRMAN

T09-0139
Exhibit A

FA Route 506
Section 123BR
Hancock County
Job No. R-96-013-06

Keokuk Junction Railway
Parcel 6136106

Sta. 36+69.34 to Sta. 38+65.60

A part of the Northeast Quarter and a part of the Northwest Quarter all in Section 32, Township 5 North, Range 8 West of the Fourth Principal Meridian, Hancock County, Illinois, described as follows:

Commencing at the southeast corner of the Northwest Quarter of said Section 32; thence along the east line of said Northwest Quarter, North 00 degrees 45 minutes 28 seconds West, 1,492.03 feet; thence South 89 degrees 14 minutes 32 seconds West, 73.10 feet to a point on the west existing right of way line of F. A. Route 506 (IL Route 96) said point being the Point of Beginning; thence North 75 degrees 43 minutes 30 seconds West, 20.72 feet; thence North 29 degrees 49 minutes 48 seconds East, 88.02 feet to the aforesaid west existing right of way line; thence along said existing right of way line, South 16 degrees 13 minutes 12 seconds West, 84.85 feet to the Point of Beginning, containing 0.020 acre, more or less.

SEE PESA REPORT

FA Route 506
Section 123BR
Job No. R-96-013-06
Hancock County

KNRECO
Parcel 6136106TE

Sta. 36+24.31 to 37+95.54
Purpose: Driveway Reconstruction

A part of the North Half of Section 32, Township 5 North, Range 8 West of the Fourth Principal Meridian, Hancock County, Illinois, described as follows:

Beginning at a point 33.00 feet right of F. A. Route 506 (Illinois Route 96) Centerline Station 36+39.59; thence North 67 degrees 08 minutes 12 seconds West, 13.11 feet to a point 45.00 feet right of Station 36+34.31; thence North 00 degrees 54 minutes 59 seconds West, 10.00 feet to a point 45.00 feet right of Station 36+24.31; thence North 89 degrees 05 minutes 01 seconds East, 12.00 feet to a point 33.00 feet right of Station 36+24.31; thence South 00 degrees 54 minutes 59 seconds East, 15.28 feet to the Point of Beginning, containing 152 square feet (0.004 acre), more or less.

SEE PESA REPORT

FA Route 506
Section 123BR
Hancock County
Job No. R-96-013-06

Pioneer Resources, Inc.
Parcel 6136109

Sta. 37+90 to Sta. 38+65.60

A part of the Northeast Quarter, Section 32, Township 5 North, Range 8 West of the Fourth Principal Meridian, Hancock County, Illinois, described as follows:

6136109

Commencing at the southwest corner of the Northeast Quarter of said Section 32; thence along the west line of said Northeast Quarter, North 00 degrees 45 minutes 28 seconds West, 1,409.70 feet; thence North 89 degrees 14 minutes 32 seconds East, 77.13 feet to a point on the east existing right of way line of F. A. Route 506 (IL Route 96) said point being the Point of Beginning; thence along said existing right of way line, North 00 degrees 54 minutes 59 seconds West, 58.83 feet; thence continuing along said existing right of way line, North 82 degrees 47 minutes 11 seconds West, 35.36 feet; thence continuing along said right of way line, North 05 degrees 30 minutes 39 seconds West, 10.03 feet; thence South 88 degrees 49 minutes 30 seconds East, 63.33 feet; thence South 26 degrees 14 minutes 35 seconds East, 40.03 feet; thence South 00 degrees 54 minutes 59 seconds East, 15.60 feet; thence North 88 degrees 23 minutes 22 seconds West, 40.04 feet to the Point of Beginning, containing 0.046 acre, more or less.

Legal Description

FA Route 506
Section 123BR
Job No. R-96-013-06
Hancock County

Pioneer Resources, Inc.
Parcel 6136109TE

Sta. 36+24.31 to 37+95.54
Purpose: TE- Driveway Reconstruction

A part of the North Half of Section 32, Township 5 North, Range 8 West of the Fourth Principal Meridian, Hancock County, Illinois, described as follows:

6136109TE Beginning at a point 19.26 feet left of F. A. Route 506 (Illinois Route 96) Centerline Station 36+39.34 ; thence North 89 degrees 05 minutes 01 seconds East, 15.22 feet to a point 34.50 feet left of Station 36+39.34; thence South 00 degrees 54 minutes 59 seconds East, 30.00 feet to a point 34.50 feet left of Station 36+69.34; thence North 67 degrees 08 minutes 12 seconds West, 24.04 feet to a point 12.50 feet left of Station 36+59.64; thence North 17 degrees 32 minutes 48 seconds East, 21.40 feet to the Point of Beginning, containing 485 square feet (0.011 acre), more or less.