

**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,)	
)	
Petitioner,)	
)	No. T10-0184
vs.)	
)	
BNSF Railway Company, a Delaware Corporation; and)	
Unknown Owners,)	
)	
Respondents.)	

Petition for approval of the taking or damaging of certain property owned by a common transportation carrier in Knox County, Illinois by exercising the right of eminent domain. Job No. R-94-020-09; Parcel No. 4CAA008PE

BNSF'S MOTION TO CONTINUE HEARING

NOW COMES Respondent, BNSF Railway Company (BNSF), by its attorneys, Daley Mohan Groble, PC, and, presents this Honorable Commission pursuant to Section 200.560 of Part 200 of subchapter b of Chapter I of Title 83 of the Illinois Administrative Code and Supreme Court Rule 231 with this motion to continue the hearing, set for **February 7, 2011 at 2:00 p.m.**, for approximately one week. In support hereof, your movant states as follows:

1. That this matter was set for hearing pursuant to notice entered January 24, 2011, which was received by Respondent's attorney (Robert J. Prendergast) on Monday, January 31, 2011 in the late afternoon by U.S. Mail. Mr. French Thompson received notice upon arrival at his office on Tuesday, February 1, 2011.

2. Respondent's witness and corporate representative, BNSF Manager Public Projects French Thompson III, is not available to attend the hearing due to pre-arranged out-of-town trip plans (2/3/11-2/7/11) that cannot be changed.

3. Mr. Thompson is assigned to the territory involved in this action, and has been actively involved in the negotiations, planning, scope, and attempts to reach agreement on the overpass project. He is expected to provide testimony on matters relating to the project, his knowledge of the area, negotiations relevant to the burden of proof of IDOT in this matter, recommendations as to the appropriate property interest if the Commission gives approval to seek eminent domain, and provide information pertinent to BNSF's affirmative defense. As corporate representative, his knowledge of the project and related issues is necessary to assist counsel in the defense of the petition. Mr. Thompson would have authority to enter into appropriate stipulations and agreements to assist in the resolution of the matters raised in the Petition.

4. Due to the recent receipt of the Notice of Hearing, the unexpected setting of the hearing, and the need to have Mr. Thompson present at the hearing, BNSF respectfully requests that the hearing be continued to February 11, 2011, or any date in the week of February 14, 2011. BNSF would note that it has a hearing set for February 15, 2011 at 10:00 am in Case No. T00-0089. Should the continuance be granted, Mr. Thompson will be available at this time, or any other time upon consultation and notice.

WHEREFORE Respondent, BNSF Railway Company prays that the Illinois Commerce Commission enter an order granting the continuance to another date to allow it to properly defend the allegations in the Petition.

DALEY MOHAN GROBLE, P.C.

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

Robert J. Prendergast
DALEY MOHAN GROBLE, P.C.
Attorneys for BNSF Railway Company
55 West Monroe Street
Suite 1600
Chicago, IL 60603
Phone—(312) 422-0799
Facsimile—(312) 422-5370
rprendergast@daleymohan.com

VERIFICATION

French F. Thompson III, under penalties provided pursuant to 735 ILCS 5/1-109, certifies that he is Manager Public Projects for BNSF Railway Company, the Respondent herein, that he is duly authorized by said railroad company to sign, verify and file the foregoing Motion to Continue, and that the matters set forth in said Motion are true and correct to the best of his knowledge, information and belief, including the statements of want of knowledge.

s/ French F. Thompson III

French F. Thompson III

CERTIFICATE OF SERVICE

I, Robert J. Prendergast, an attorney, hereby certify that on the 1st day of February, 2011, I caused the foregoing **BNSF'S MOTION TO CONTINUE** to be served on attorneys/parties of record by operation of the Commission's Electronic Filing System and by email to the addresses listed below:

John Saladino
Illinois Commerce Commission
527 E. Capitol Avenue
Springfield, IL 62701
jsaladino@icc.illinois.gov

Douglas G. Felder
Douglas G. Felder, P.C.
203 North LaSalle Street
Suite 2300
Chicago, IL 60601
dougfelder@aol.com

Ms. Christine Reed, P. E.
Director of Highways-IDOT
ATTN: Jeff Harpring, Room 205
2300 South Dirksen Parkway
Springfield, IL 62764
jeff.harpring@illinois.gov

/s/ Robert J. Prendergast
Robert J. Prendergast