STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

STATE OF ILLINOIS DEPARTMENT OF TRANSPORTATION PETITIONER,	:	
v.	:	Docket No. T10-0174
BNSF RAILWAY COMPANY, RESPONDENT.	:	

Petition for an Order authorizing the construction of a new grade structure over the BNSF Railway at IL 13 (FAP 331), and a new at-grade crossing for the frontage road in the City of Marion, Williamson County, Illinois.

NOTICE OF FILING

To ALL PARTIES OF RECORD:

PLEASE TAKE NOTICE that I have filed this 9th day of February 2011, the Illinois Department of Transportation's Response to Interrogatories in 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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EXHIBIT
Respondent
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CERTIFICATE OF SERVICE

I, Gloria M. Camarena, an attorney, hereby certify that on the **9th of February, 2011**, I caused the foregoing **Response to BNSF's Interrogatories** 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 their respective addresses set forth:

Robert J. Prendergast
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Gloria M. Camarena

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

STATE OF ILLINOIS DEPARTMENT OF TRANSPORTATION PETITIONER, v. BNSF RAILWAY COMPANY, RESPONDENT.	: : : : : : : : : : :	Docket No. T10-0174

Petition for an Order authorizing the construction of a new grade separation structure over the BNSF Railway Company at IL Route 13 (FAP 331) and a new at-grade crossing for the frontage road in the City of Marion, Williamson County, Illinois.

ILLINOIS DEPARTMENT OF TRANSPORTATION'S RESPONSE TO INTERROGATORIES

NOW COMES Petitioner, State of Illinois, Illinois Department of Transportation ("Department"), by and through its attorney, Gloria M. Camarena, Special Assistant Attorney General, in response to Respondent's request for interrogatories, states as follows:

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

ANSWER: Carrie Nelsen, P.O. Box 100, Carbondale, IL 62903. Date of Birth is 12/12/1968, and her occupation is Civil Engineer.

2. State all facts and list all documents, regulations, or statutes, which IDOT relies upon in its contention that BNSF should bear the cost of constructing the bridge proposed in the Petition.

ANSWER: Department denies that it is seeking any funds from BNSF. The Department's position is that all the costs of the project will be borne by the State of Illinois, Department of Transportation.

3. Is the bridge proposed in the Petition eligible for any funding under the Highway Bridge Program (HBP), formerly known as the Highway Bridge Replacement and Rehabilitation Program (HBRRP) for the design and/or construction of the bridge? If so, please state:

a.) the amount of funding that is available to be assigned to the design and construction of the bridge;

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

c.) the amount of monies from HBP that IDOT will pay toward the cost of the design and construction of the proposed bridge;

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

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

~~ANSWER: The Highway Bridge Program (HBP) funding is for replacement or rehabilitation of~~ existing structures. This project contemplates the construction of a new Bridge; therefore, the Department cannot seek HBP funds for this project. This response applies to 3a thru 3e.

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

ANSWER: A.) 23 Code of Federal Regulations (CFR), subpart D "Highway Bridge Replacement and Rehabilitation Program" (a.k.a. Highway Bridge Program or HBP), states "in accordance with 23 U.S.C. 144", and also states in 23 CFR subsection 650.405 "Eligible Projects", that only deficient (existing) bridges are eligible to use HBP funding for purposes of replacement or rehabilitation.

Specifically, CFR § 650.405 states:

§ 650.405 - Eligible Projects

a.) General. Deficient highway bridges on all public roads may be eligible for replacement or rehabilitation.

b.) Types of projects which are eligible. The following types of work are eligible for participation in the Highway Bridge Replacement and Rehabilitation Program (HBRRP), hereinafter known as the Bridge Program.

(1) Replacement. Total replacement of a structurally deficient or functionally obsolete bridge with a new facility constructed in the same general traffic corridor. A nominal amount of approach work, sufficient to connect the new facility to the existing roadway or to return the gradeline to an attainable touchdown point in accordance with good design practice is also eligible. The replacement structure must meet the current geometric, construction and structural standards required for the types and volume of projected traffic on the facility over its design life.

(2) Rehabilitation. The project requirements necessary to perform the major work required to restore the structural integrity of a bridge as well as work necessary to correct major safety defects are eligible except as noted under ineligible work. Bridges to be rehabilitated both on or off the F-A System shall, as a minimum, conform with the provisions of 23 CFR part 625, Design Standards for Federal-aid Highways, for the class of highway on which the bridge is a part. (Note that "F-A" means "Federal Aid".)

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c.) Ineligible work. Except otherwise prescribed by the Administrator, the costs of long approach fills, causeways, connecting roadways, interchanges, ramps, and other extensive earth structures, when constructed beyond the attainable touchdown point, are not eligible under the bridge program.

The bridge at the site of the proposed bridge is not deficient and does not meet the criteria for funding under CFR § 650.405.

B.) The name of the person knowledgeable about the reason IDOT has not sought HBP funding is Jeffrey M. South, P.E., Bureau Chief, Statewide Program Planning, Office of Planning and Programming, IDOT Central Office, 2300 South Dirksen Parkway, Springfield, IL 62764.

5. Is the bridge proposed in the Petition eligible for any governmental funding other than the Highway

Bridge Program (HBP) for the design and/or construction of the bridge? If so, please state:

a.) the amount of funding that is available to be assigned to the design and construction of the bridge;

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

c.) the source of the funding for the proposed bridge design and construction;

d.) the amount of monies the said funding source that IDOT will pay toward the cost of the design and construction of the proposed bridge;

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

ANSWER: The Bridge and the entire project is eligible for funding through the IL Jobs Now! Capital Bill.

a.) $44,000,000 is committed for the bridge, roadway, and frontage road construction.

b.) Funding was sought under the IL Jobs Now! Capital Bill.

c.) Funding is secured through the IL Jobs Now! Capital Bill.

~~d.) 100% of all the design and construction costs will be paid by IDOT.~~

e.) Funding has been secured by IDOT – see answer 5b above.

f.) Not applicable

6. If the answer to the preceding interrogatory is no, please state: a.) each action taken by IDOT to determine that the proposed bridge is not eligible for funding other than through HBP; b.) the name and address of the person at IDOT knowledgeable about the actions taken by IDOT to determine why the proposed bridge is not eligible for funding from sources other than through HBP.

ANSWER: Not applicable

7. With regard to the bridge proposed in the Petition, is IDOT seeking to have BNSF pay for some or all of the cost of the design or construction of said bridge? If so, please state and itemize:

a.) the cost and expense of the proposed bridge structure, providing an itemization of all costs and expenses;

b.) the portion, percentage, and itemization of all costs and expense that IDOT is seeking be paid by BNSF, if any,

ANSWER: Department denies that it is seeking any funds from the BNSF Railway Company for the bridge construction. Department's position is that all costs of the project will be borne by the Department of Transportation.

a.) The cost of the entire project is $44,000,000 which includes the bridge, roadway and frontage road

b.) Zero percent of the estimated project cost is being sought from BNSF.

8. Please explain the complete basis for IDOT's request to open a new crossing referenced in the Petition.

ANSWER: The proposed IL Route 13 grade separation will restrict current and potential future access to the adjacent properties along the south side of IL Route 13. Access is anticipated to be accomplished by providing a parallel frontage road with an at-grade crossing to accommodate circulation and connectivity of this facility to the surrounding roadway network. The proposed frontage road will improve the traffic flow through the area and improve the economic development potential of the area.

9. Pursuant to Illinois Supreme Court Rule 206(a)(1), state the person or persons most knowledgeable about the criteria or basis for IDOT's request to open a new crossing as referenced in the Petition.

ANSWER: The following people are the most knowledgeable on the Department's request to open a new crossing: They are Mary Lamie - Regional Engineer, Carrie Nelson - Program Development Engineer, Joe Zdankiewicz – Studies and Plans Engineer, David Piche – Bridge and Hydraulics Engineer, Stan Hansen – Crawford, Murphy, Tilly, Greg McLaughlin – Project Support Engineer.

10. Have any traffic studies been done within the last 5 years to determine the amount of vehicular traffic

that is expected to travel over the proposed frontage road crossing? If so, please state:

a.) the date or dates of any such traffic study;

b.) the name and address of the entity or individual that performed the traffic study;

c.) whether any report or correspondence was generated setting for the results of said study or studies; and

d.) the results of any such traffic study or studies, including the expected Average Daily Traffic count (ADT), and basis for its determination.

ANSWER: Yes, there are traffic studies that have been done within the last 5 years that determine the amount of vehicular traffic that is expected to travel over the proposed frontage road. Traffic studies have been conducted by IDOT and the City of Marion and their representatives. The most recent study, a trip Generation & Destination Study and a Traffic Impact Assessment, was prepared in 2010 for this corridor along with additional traffic capacity analyses for the Intersection Design Studies approved for the design of the IL Route 13 intersections.

a.) Study conducted in 2010

b.) IDOT District 9, PO Box 100, Carbondale, IL 62903; and Crawford, Murphy and Tilly, Inc., 2750 West Washington Street, Springfield, IL 62702

c.) Yes, reports were generated

d.) The two most recent traffic studies, the Trip Generation and Destination Study and Traffic Impact Assessment, were prepared to determine the appropriate design traffic volumes along the IL Route 13 corridor in Marion, Illinois. Traffic volumes were forecasted based on the proposed land use plan and the anticipated development for the surrounding area. Additional traffic growth in the area was also accounted for by projecting the background traffic growth. The resulting design traffic volumes are as follows:

32,160 - IL Route 13 ADT (Year 2014)

42,040 - IL Route 13 ADT (Year 2034)

2,460 – Frontage Road ADT (Year 2014)
2,740 – Frontage Road ADT (Year 2034)

These traffic numbers assume that there will be development along the proposed frontage road between Skyline and Walton Way and that the STAR bond development will occur. The specific proposed developments assumed along the proposed frontage road are two restaurants with the capacity to seat 235 and 190 people, a 1000 SF Specialty Retail Center, and a 1000 SF Office Park.

11. Was any investigation, inspection and/or examination of the area involved with the proposed frontage road crossing conducted by you, by anyone on your behalf or by anyone to your knowledge prior to the filing of the Petition? If so, for each investigation, inspection and/or examination state:

a.) The names, addresses and relationship of each individual who directed such inspection, investigation and/or examination;

b.) The names and addresses of all persons, their occupations and employers who took part in said inspection, investigation and/or examination; and

c.) Identify all dates and writings pertaining or relating to any such inspection.

ANSWER: Department's District 9 staff and its consultant Crawford, Murphy and Tilly are continually examining the area as bridge and roadway plans are being developed for the proposed project. The report that has been generated is the Design Report, FAP 331 (IL Route 13) Division Street in Carterville, IL to West of Halfway Road in Marion, IL Williamson County. The document that will be generated are the final Proposed Highway Plans and Specifications for FAP Route 331 (IL 13), Section (1X-1) VB-1, B-1, N-4, R-3.

12. State the closest crossing (including grade separations) on BNSF's main line track involved, in each direction from the proposed frontage crossing, and from Route 13. With regard to these crossings, please state:

a.) The distance and direction from the proposed frontage road crossing;

b.) The ADT for each crossing;

c.) The name of the roadway which crosses the track at each said crossing; and

d.) The type of crossing, whether at-grade or grade separation.

ANSWER: The closest crossing to the north is IL Route 13 at-grade crossing and to the south is the old IL Route 13 grade separation.

a.) IL Route 13 – is 600' to the north; traffic travels east-west; existing crossing is at-grade and the proposed crossing is grade separated. Old IL Route 13 – is 5,500' to the south, traffic travels east-west; and existing crossing is grade separated.

b.) IL Route 13 - 2014 ADT – 32,160 vehicles per day and 2034 ADT – 42,040 vehicles per day;
Old Route 13 - 2010 ADT – 10,700 vehicles per day.

c.) IL Route 13 and old IL Route 13 or West Main Street.

d.) IL Route 13 existing crossing is at-grade and the proposed crossing is grade separated. The Old Route 13 existing crossing is grade separated.

13. With regard to the frontage road crossing proposed in the Petition, is IDOT seeking to have BNSF pay ~~for some or all of the cost of the proposed roadway or crossing? If so, please state and itemize:~~

a.) the cost and expense of the proposed roadway or crossing, providing an itemization of all costs and expenses;

b.) the portion, percentage, and itemization of all costs and expenses that IDOT is seeking be paid by BNSF, if any.

ANSWER: No, Department is not seeking any funds from the BNSF Railway Company for the proposed roadway or crossing. The Department's position is that all costs of the project will be borne by the Department.

14. Have any studies, site investigations or inspections, or other determinations been made to assess the type and level of warning devices that is IDOT seeking at the proposed frontage road crossing? If so, please state:

a.) the name and address of the individual(s) who performed the study, investigation or made the determination;

b.) they type and level of warning devices IDOT is seeking at the proposed crossing;

c.) whether any cost estimates have been memorialized;

d.) whether IDOT is paying for the installation of the warning devices, and if not, who IDOT is seeking to have pay the costs of warning devices at the proposed crossing.

ANSWER: Yes, for preliminary estimating and programming purposes, it was assumed by the Department that that the proposed Frontage Road at-grade crossing would be protected with automatic flashing lights and gates.

a.) District 9 staff

b.) Automatic flashing lights and gates are the types of warning devices being sought at the proposed crossing.

c.) The cost estimate for the warning devices is $320,000.

d.) Yes, the Department is paying for the installation of the warning devices

~~15. 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: The Plaintiff has not yet determined which lay witnesses it intends to call to testify at trial.

16. 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: The Plaintiff has not yet determined which expert witnesses it intends to call to testify at trail.

17. 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: The Plaintiff has not yet determined which expert witnesses it intends to call to testify at trail.