

**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,)	
)	
vs.)	
)	
Union Pacific Railroad Company, a Delaware Corporation, and Unknown Owners,)	Docket No.
)	
Respondents.)	
)	
Petition for approval of the taking or damaging owned by a common transportation carrier in DuPage County, Illinois by exercising the right of eminent domain of certain properties)	
Parcel Nos. 1KF0001 & TE; Job No. R91-018-13)	

PETITION FOR APPROVAL OF EMINENT DOMAIN

TO THE ILLINOIS COMMERCE COMMISSION:

Petitioner, THE DEPARTMENT OF TRANSPORTATION of the State of Illinois, a Department of the State Government of Illinois (the "Department"), by Lisa M. Madigan, Attorney General of the State of Illinois, and Douglas G. Felder, Special Assistant Attorney, under the Illinois Eminent Domain Act (735 ILCS 30/10-5-5 through 30/25-7-149), formerly Article VII of the Illinois Code of Civil Procedure (735 ILCS 5/7-102), requests approval of the Illinois Commerce Commission for the taking and/or damaging of certain properties owned by Union Pacific Railroad Company, a Delaware Corporation (the "Railroad"), a public transportation common carrier subject to the jurisdiction of the ILLINOIS COMMERCE COMMISSION.

1. Under Articles 2 and 4 of the Illinois Highway Code, (605 ILCS 5/2-101; 5/2-220; and, §§5/4-101 through 5/4-512, 2012), the Department proposes to improve IL 21

(Fabyan Parkway) at IL 38 (Roosevelt Road) in DuPage County, Illinois. This construction project requires the acquisition of Parcel Nos. 1KF0001 & TE which consist of 0.157 acres/6,839 s.f. of land to be acquired respectively in fee simple absolute title and 0.021 acres/911 s.f. of land to be acquired as a temporary construction easement for the period of five (5) years or upon completion of construction, whichever first occurs.

2. Under the Illinois Highway Code, IL 21 (Fabyan Parkway) at IL 38 (Roosevelt Road) in DuPage County, Illinois is a part of and included in the State Highway System.

3. Section 4-501 of the said Illinois Highway Code (605 ILCS 5/4-501, 2012) provides:

"The Department, in its name, or any county may acquire the fee simple title, or such lesser interest as may be desired, to any land, rights or other property necessary for the construction, maintenance or operation of State highways, or necessary for locating, relocating, extending, widening or straightening any State highway, or necessary for locating, relocating, extending, widening or straightening an existing street or for laying out, establishing or opening a new street within the corporate limits of any municipality which has been designated by the Department as a street to form a part of or to connect with a State highway leading up to the corporate limits of such municipality, or necessary for any other purpose or use contemplated by this Code by purchase or by the exercise of the right of eminent domain under the eminent domain laws of this State and the Department shall not be required, in any case, to furnish bond."

4. The improvement of IL 21 (Fabyan Parkway) at IL 38 (Roosevelt Road) in DuPage County, Illinois is a public work and improvement project constituting a public purpose, namely the improvement of a public highway in DuPage County.

5. The Railroad is subject to the jurisdiction of the Commission.

6. The Railroad is title holder to certain real property, said property being located in DuPage County, the legal descriptions of which are attached hereto and marked as

Exhibits A and B.

7. The real property required for this project is located at or adjacent to IL 21 (Fabyan Parkway) at IL 38 (Roosevelt Road) in DuPage County, Illinois and the Department has deemed it necessary to improve vehicular traffic and the safety of the motoring public by constructing this project at IL 21 (Fabyan Parkway) at IL 38 (Roosevelt Road) in DuPage County, Illinois. A copy of the Department's Plat of Highways depicting the property sought to be acquired by the Department is shown on Exhibit C attached hereto.

8. The Department has been authorized to acquire 0.157 acres/6,839 s.f. of real property designated as Parcel No. 1KF0001 (Exhibit A) in fee simple absolute title, and to acquire 0.021 acres/911 s.f. of land of real property designated as Parcel No. 1KF0001TE (Exhibit B) as a temporary easement for the period of five (5) years or upon completion of construction, and it is necessary for the Department to acquire said property for the above-described improvement of IL 21 (Fabyan Parkway) at IL 38 (Roosevelt Road) in DuPage County for the use of the People of the State of Illinois.

9. The terms of the compensation to be paid by the Department for the property hereinafter described cannot be agreed upon between the Department and the Railroad although the Department has attempted to effect such an agreement, or the Department has otherwise been otherwise unable to acquire the title it needs from the Railroad to construct this improvement. The Department, therefore, is authorized and desires to proceed to acquire the property under the eminent domain laws of this State.

10. Section 10-5-10 of the Eminent Domain Act of Illinois (735 ILCS 30/10-5-10, formerly 735 ILCS 5/7-102) requires the Department to obtain approval of the

Commission prior to the taking or damaging of the Railroad's property described in Exhibits A, B, and C.

WHEREFORE, The Department, THE DEPARTMENT OF TRANSPORTATION OF THE STATE OF ILLINOIS, requests the Commission to approve the taking or damaging of the above described real property of the Railroad by the exercise of the right of eminent domain.

THE DEPARTMENT OF TRANSPORTATION OF THE STATE OF ILLINOIS, for and on behalf of the People of the State of Illinois

LISA M. MADIGAN, Attorney General of Illinois

By: *Douglas G. Felder*
Douglas G. Felder
Special Assistant Attorney General

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, Douglas G. Felder, being first duly sworn, upon oath, depose and say that I am a Special Assistant Attorney General for the State of Illinois, that I have read the above and foregoing Petition by me subscribed, I have knowledge of the contents thereof, and that on information and belief said contents are true and correct.

Douglas G. Felder
Special Assistant Attorney General

SUBSCRIBED and SWORN
to before me this 11th day of
April 2014

Notary Public

CERTIFICATE OF SERVICE

I, Douglas G. Felder, an attorney, certify that I served the foregoing Petition upon the following addresses at their respective addresses set forth:

E-FILING AND U.S. MAIL

Mr. David Lazarides, Director of
Processing
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, IL 62701
Via E-filing

Union Pacific Railroad Company
1400 Douglas Street
STOP 1690
Omaha, NE 68179-1690
Attention: Jason Mashek

Union Pacific Railroad Company
101 N. Wacker Drive - Room 1920
Chicago, IL 60606-1718
Attention: Mack H. Shumate, Jr.

by *e-filing* and enclosing a copy of said Petition, together with Exhibits A, B, and C to said Petition, in an envelope correctly addressed with sufficient first class postage affixed thereto, sealed and deposited said envelopes in the U.S. Mail Chute at 203 North LaSalle Street, Chicago, Illinois, before 5:00 p.m. on the 11th day of April 2014.

Douglas G. Felder

Douglas G. Felder
Douglas G. Felder, P.C.
Special Assistant Attorney General
203 North LaSalle Street
Suite 2300
Chicago, Illinois 60601
(312) 634-3509