

Pursuant to proper notice, the matter came on for hearing before a duly authorized Administrative Law Judge of the Commission at the Commission's Chicago offices on June 6, 2002. The County and BNSF were represented by counsel. A member of the staff of the Railroad Section, Transportation Division of the Commission, Henry Humphries, appeared. Testimony and evidence were elicited from Kevin Vandendooren, County engineer; John Koster, managing member of Riverport; and Cheryl Townlian, manager of public projects for BNSF. At the conclusion of a full and public hearing on the aforementioned date, the record was marked "Heard and Taken."

A proposed order was served upon the parties on or about June 13, 2002. No briefs on exceptions were filed.

Mr. Vandendooren testified that on the former Savanna Army Depot, now being commercially developed, there is a double main line track of the BNSF crossing Crim Drive in a generally north to south direction. At this intersection, milepost 153.91, DOT 069913L, the warning devices consist of automatic flashing light signals, gates, and bell. Carroll County has assumed ownership and jurisdiction over Crim Drive and designated it as Carroll County Highway CH 110. The roadway crossing is now a dedicated roadway open to the traveling public and the Commission is requested to designate the crossing as a public at-grade crossing.

Ms. Townlian testified that BNSF operates thirty-five (35) trains daily in both directions, day and night. The trains originate in Chicago and terminate in Wisconsin and Minneapolis. These are all freight trains traveling at sixty-five (65) mph.

Riverport has two at-grade crossings approximately one hundred feet (100') feet from the BNSF crossing: 1) Crim Drive (CH 110) and 2) CN Road (CH 130). Crossing surfaces are timber and rubber, respectively and the warning devices consist of pavement markings and crossbuck signs. There has been no official traffic count but it is estimated that 300 vehicles cross Crim Drive daily and approximately 50 cross CN Road. From five to seven percent (5-7%) of this traffic are trucks. Crim Drive and CN Road are now under the County's jurisdiction, open to the traveling public and the Commission is requested to designate the crossings as public at-grade crossings.

Mr. Koster testified that Riverport is a terminal and switching railroad with twenty-eight (28) employees. Riverport operates four engines and switches 700 cars each month. There are four train movements over the track at Crim Drive and CN Road daily. The maximum speed is ten (10) miles per hour ("mph").

Commission staff recommends that the protection as indicated at each of the crossings subject to this matter is adequate to protect the traveling public.

The Commission, having considered the evidence and being fully advised in the premises, is of the opinion and finds that:

- (1) Carroll County, Illinois is a political subdivision organized and existing under and by virtue of the laws of the State of Illinois;
- (2) The Burlington Northern and Santa Fe Railway Company and Riverport Railroad, LLC are corporations engaged in the transportation of persons and/or property by rail in the State of Illinois, and as such are rail carriers as defined by the Illinois Commercial Transportation Law;
- (3) the Department of Transportation of the State of Illinois exists by virtue of the laws of the State of Illinois;
- (4) the Commission has jurisdiction of the parties hereto and the subject matter hereof;
- (5) The Burlington Northern and Santa Fe Railway Company has a double main line track running in a general north-south direction on property formerly known as Savanna Army Depot; the track crosses the former Crim Road, now known as Carroll County Highway CH 110;
- (6) Riverport Railroad, LLC has two single track crossings: one which crosses Crim Drive (CH 110) and one which crosses CN Road (CH 130);
- (7) Crim Drive and CN Road are now dedicated County Highways serving the traveling public and Petitioners, The Burlington Northern and Santa Fe Railway Company and Riverport Railroad, LLC, request that the railroad crossings over said highways be designated as public crossings;
- (8) the Commission finds that public safety, convenience, and necessity dictate that the crossings be designated as public crossings;
- (9) the Commission finds that the warning devices at the Burlington Northern and Santa Fe Railway Company crossing of Crim Drive (CH 110) are adequate and sufficient to protect the general traveling public;
- (10) the Commission finds that the warning devices at Riverport Railroad, LLC crossing of Crim Drive (CH 110) and CN Road are adequate and sufficient to protect the general traveling public.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that the crossing of the tracks of the Burlington Northern and Santa Fe Railway Company at Crim Drive (CH 110) in Carroll County, Illinois, be, and it is hereby designated as a public at-grade crossing.

IT IS FURTHER ORDERED that the crossing of the tracks of Riverport Railroad, LLC, at Crim Drive (CH 110) and the crossing of the tracks at CN Road (CH 130), be, and the same are hereby designated as public at-grade crossings.

IT IS FURTHER ORDERED that the warning devices at the Crim Road (CH 110) intersection with the tracks of The Burlington Northern and Santa Fe Railway Company are adequate and sufficient for the safety of the general traveling public.

IT IS FURTHER ORDERED that The Burlington Northern and Santa Fe Railway Company shall file Form 3 of 92 Ill. Adm. Code 1535 of this Commission, showing details of the automatic warning devices and shall receive approval thereof by X-Resolution.

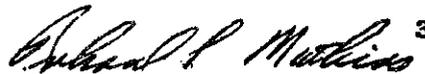
IT IS FURTHER ORDERED that the warning devices at the Crim Road (CH 110) and the CN Road (CH 130) intersections with the track of Riverport Railroad, LLC are adequate and sufficient for the safety of the general traveling public.

IT IS FURTHER ORDERED that The Burlington Northern and Santa Fe Railway Company and Riverport Railroad, LLC shall each submit to the Director of Processing, Transportation Division of the Commission, a National Inventory Update Report Form as a notice of said change in designation from private to public.

IT IS FURTHER ORDERED that in accordance with Chapter 625 ILCS 5/18c-2201 and 5/18c-2206 of the Illinois Commercial Transportation Law, this is a final order subject to the Administrative Review Law.

By Order of the Commission this 24th day of July, 2002.

JUDGE	JBT
SECTION CHIEF	
ORDERS SUPERVISOR	APR



Chairman