

**ORIGINAL**

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

STIPULATED AGREEMENT No. 1001

T02-0108

This agreement made and entered into, by and between the State of Illinois acting by and through the Illinois Commerce Commission, hereinafter referred to as "COMMISSION", the Union Pacific Railroad Company, hereinafter referred to as "COMPANY", the County of Moultrie, hereinafter referred to as "COUNTY", Sullivan Township of Moultrie County, hereinafter referred to as "TOWNSHIP", and the State of Illinois, Department of Transportation, hereinafter referred to as the "DEPARTMENT".

WITNESSETH:

WHEREAS, it has come to the attention of the COMMISSION through formal correspondence that inquiry should be made into the matter of improving public safety at the crossings of the COMPANY'S track with public highways known as County Highway ("CH") 11 and Township Road ("TR") 137, AAR/DOT 167 277K, milepost 179.58CC, and AAR/DOT 167 276D, milepost 179.45CC), respectively, in the unincorporated community of Kirksville, Moultrie County, Illinois; and

WHEREAS, proper investigation has been made of the circumstances surrounding the aforesaid crossings by a diagnostic team comprised of representatives of the parties to this Agreement; and

WHEREAS, the physical aspects, including geometrics of the intersection, train movements, vehicular traffic volume, and all other pertinent data relating to the CH 11 and the TR 137 crossings have been obtained and shown on Exhibits A-1 and A-2, attached to the Agreement; and

WHEREAS, the parties are mutually agreeable to accomplish the proposed improvements upon a determination of the COMMISSION by Order.

NOW, THEREFORE in consideration of the premises and of the mutual covenants and agreements as hereinafter contained, the parties pray that the COMMISSION enter an Order according to the provisions of Section 18c-7401 of the Illinois Commercial Transportation Law requiring that certain improvements as hereinafter stated be made and that the cost for the proposed improvements be divided among the parties according to law and that in the interest of the statewide traveling public the Grade Crossing Protection Fund of the Motor Fuel Tax Law ("Fund") be required to bear a substantial portion of the cost; To Wit the parties agree as follows:

Section 1 All improvements encompassed by this Agreement shall be made in accordance with all applicable State laws, rules, standards, regulations, Orders, and

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procedures in general.

Section 2 The parties are of the opinion that the proper improvements in the interest of public safety at the aforesaid crossings should be:

- (a) Installation of automatic flashing light signals and gates (with a bell), controlled by constant warning time circuitry in lieu of the existing automatic flashing light signals and bell at the CH 11 crossing.
- (b) Construction of a new roadway connecting CH 11 and TR 137, substantially as shown on Exhibit C, pages 4-8.
- (c) The removal of the existing timber crossing surface, the installation of new crossing ties, and the re-installation of the timber crossing surface at CH 11.
- (d) Installation of type-3 barricades at the TR 137 crossing conforming to the requirements of 92 ILCS 1535.701 and the standards of the Manual on Uniform Traffic Control Devices (see Section 6, Special Provisions and Exhibit A-2, page 2).

Section 3 The COMMISSION'S Rail Safety Section (Staff) (see Section 6, Special Provisions) and COUNTY have prepared preliminary estimates of cost to accomplish the proposed warning device and connecting roadway improvements that the COMPANY and COUNTY may be required to perform. Said estimates are attached as Exhibits B and C. There are no estimates for the crossing surface or barricade installations. The COMPANY and COUNTY shall upon Order, according to the requirements contained therein, prepare detailed drawings, detailed circuit plans, estimates of cost and any required specifications for the proposed improvements for the approval of the COMMISSION and DEPARTMENT.

Section 4 The COMPANY and COUNTY shall upon Order, according to the requirements contained therein, proceed toward the completion of the proposed improvements, accomplishing the work with their own forces or appropriate contracted services and agree that an appropriate time for the submission of plans should be one hundred twenty (120) days and for the completion of the proposed improvements should be twelve (12) months, from the date of COMMISSION Order subsequent to this Agreement.

Section 5 The parties hereto agree that an equitable division of cost for the proposed improvements should be:

- (a) The installation of the automatic flashing light signals and gates (with a bell), controlled by constant warning time circuitry, estimated by Staff to be \$235,000, shall be allocated 95% of the actual cost (not to exceed \$223,250) to the Grade Crossing Protection Fund, with any remaining warning device installation cost, as well as all cost of future maintenance and operation of the warning devices, being borne by the COMPANY. (See Exhibit B)

- (b) Crossing work as set forth in Section 2(c) shall be borne 100% by the COMPANY (a tie gang of the Company is currently working on this line and will rework the CH 11 crossing as explained in Section 2(c) in the near future.)
- (c) Construction of the new connecting roadway, estimated to be \$225,700, should be allocated 100% (not to exceed \$225,700) to the Fund, with any remaining cost for the establishment of the connecting road and all cost of future maintenance of the connecting road being borne by the TOWNSHIP.
- (d) Installation and maintenance of the new Type-3 barricades at the TR 137 crossing and re-establishment of the ditch line shall be borne 100% by the COMPANY.

Section 6 Special Provisions: The COUNTY has agreed to act as the agent for Sullivan Township and will be responsible for the construction of the connection road between TR 137 and CH 11.

Staff has estimated the cost for the installation of the automatic flashing light signals and gates controlled by constant warning time circuitry. The Staff-produced estimate is based upon costs provided by the COMPANY for a similar Stipulated Agreement project also in Sullivan Township. The Order subsequent to this Agreement will contain a provision that will require the COMPANY to submit a detailed estimate of cost for the warning device installation at the CH 11 crossing to the COMMISSION and DEPARTMENT for approval prior to commencing the installation. The COMMISSION will pay from the Fund 95% of the actual cost for the installation of the warning devices at the CH 11 crossing.

The COMPANY and COUNTY shall each file a written report with the Director of Processing and Information, Transportation Division of the COMMISSION, within fifteen (15) days of the conclusion of each calendar quarter, stating the status of expenditures of the project and the percentage of completion of the project; if their portion of the overall project is behind schedule, the report must include a brief explanation of the reason(s) for the delay.

All bills for expenditures related to the installation of the automatic warning devices at the CH 11 crossing authorized to be reimbursed from the Grade Crossing Protection Fund shall be submitted to Mr. Henry Cronister, Illinois Department of Transportation, Central Bureau of Local Roads and Streets, 2300 South Dirksen Parkway, Springfield, Illinois 62764. The DEPARTMENT shall send a copy of all bills received to the Director of Processing and Information, Transportation Division of the COMMISSION. The final bill for expenditures from the Fund shall be clearly marked "Final Bill". All bills shall be submitted no later than twelve (12) months from the date of completion as set forth in the COMMISSION Order subsequent to this Agreement. The DEPARTMENT shall, at the

end of the 12<sup>th</sup> month from the COMMISSION Order completion date, de-obligate all residual funds accountable for the cost of the warning device installation for this project.

All bills for expenditures related to the construction of the connecting road between CH 11 and TR 137 authorized to be reimbursed from the Grade Crossing Protection Fund shall be submitted to the District 5 Office, Illinois Department of Transportation, Bureau of Local Roads and Streets, 13473 IL. Hwy. 133, P.O. Box 610, Paris, Illinois, 61944. The DEPARTMENT shall send a copy of all bills received to the Director of Processing and Information, Transportation Division of the COMMISSION. The final bill for expenditures from the Fund shall be clearly marked "Final Bill". All bills shall be submitted no later than twelve (12) months from the date of completion as set forth in the COMMISSION Order subsequent to this Agreement. The DEPARTMENT shall, at the end of the 12<sup>th</sup> month from the COMMISSION Order completion date, de-obligate all residual funds accountable for the cost of the construction of the connecting road for this project.

The COMPANY and COUNTY shall each at six (6) month intervals from the date of this Order until the project has been completed, submit written reports to the Director of Processing and Information, Transportation Division of the COMMISSION, stating the progress each has made toward completion of the their work herein required. Each progress report shall include the COMMISSION Order number, the Order date, the project completion date as noted in the Order subsequent to this Agreement, crossing information (the name, title, mailing address, telephone number, and facsimile number of the COMPANY and COUNTY employee responsible for management of their portion of the project).

Sullivan Township has agreed to voluntarily vacate TR 137 in the vicinity of the crossing after the warning devices have been placed in service at the CH 11 crossing and the connecting road between CH 11 and TR 137 is completed. The TOWNSHIP should send a copy of the vacation resolution or other legal document authorizing the vacation of TR 137 in the vicinity of the COMPANY'S crossing in the unincorporated community of Kirksville. The Order, subsequent to this Agreement, should contain a provision that the TR 137 crossing **not** be vacated until such time as the warning devices here in required are placed in service at the CH11 crossing and the connecting road between CH 11 and TR 137 is completed.

Section 7 This Agreement shall be binding upon the parties hereto, their successors or assigns. Upon execution of this Agreement by all parties, the COMMISSION shall enter an appropriate order, within 60 days accepting or rejecting such stipulation according to the provisions contained herein.

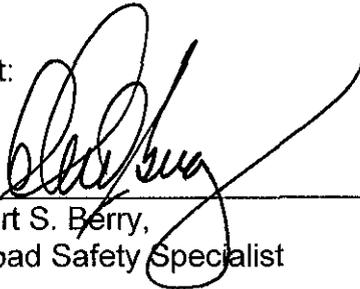
In Witness Whereof, the parties have caused this Agreement to be executed by their duly authorized officers, as of the dates indicated herein.

Executed by the COMMISSION this 30<sup>th</sup> day of April, 2002.



\_\_\_\_\_  
Michael E. Stead  
Rail Safety Program Administrator

Attest:



\_\_\_\_\_  
Robert S. Berry,  
Railroad Safety Specialist

Illinois Commerce Commission Stipulated Agreement No. 1001 concerning improvements at the crossings of the track of the Union Pacific Railroad Company with County Highway 11 and Township Road 137, located near Kirksville, Moultrie County, designated as crossings AAR/DOT 167 277K, milepost 179.58CC and 167 276D milepost 179.45 CC.

Executed by the County of Moultrie this 14<sup>th</sup> day of May, 2002.

THE COUTY OF MOULTRIE

By: 

Attest:



Illinois Commerce Commission Stipulated Agreement No. 1001 concerning improvements at the crossings of the track of the Union Pacific Railroad Company with County Highway 11 and Township Road 137, located near Kirksville, Moultrie County, designated as crossings AAR/DOT 167 277K, milepost 179.58CC and 167 276D milepost 179.45 CC.

Executed by the Department this 4<sup>th</sup> day of June, 2002.

STATE OF ILLINOIS  
DEPARTMENT OF TRANSPORTATION

By: James G. Costello  
Director of Highways

Illinois Commerce Commission Stipulated Agreement No. 1001 concerning improvements at the crossings of the track of the Union Pacific Railroad Company with County Highway 11 and Township Road 137, located near Kirksville, Moultrie County, designated as crossings AAR/DOT 167 277K, milepost 179.58CC and 167 276D milepost 179.45 CC.

Executed by the Company this 30 day of Oct, 2002.

UNION PACIFIC RAILROAD COMPANY

By: Thomas J. O'Connell  
CHIEF ENGINEER

Attest:

Kathy Klockner

Illinois Commerce Commission Stipulated Agreement No. 1001 concerning improvements at the crossings of the track of Union Pacific Railroad Company with County Highway 11 and Township Road 137, located near Kirksville, Moultrie County, designated as crossings AAR/DOT 167 277K, milepost 179.58-CC and AAR/DOT 167 276D, milepost 179.45-CC, respectively.

Executed by the Township of Sullivan this 14 day of May, 2002.

THE TOWNSHIP OF SULLIVAN, MOULTRIE COUNTY

By: Ethel H. Weaver

Attest:

Douglas E. DeLoe