



ILLINOIS COMMERCE COMMISSION

June 9, 2003

The Department of Transportation of the State of Illinois, for an on behalf of the People of the State of Illinois, Petitioner,

Vs.

Heartland Rail Corporation, an Iowa corporation; Archer-Daniels-Midland Company, a Delaware corporation; and Unknown Owners. Respondents.

T03-0053

Petition for approval of the taking or damaging of certain properties owned by a commercial transportation carrier in Cook County, Illinois by exercising the right of eminent domain. Parcel No. OER0017TE-A and OER0017TE-B.

Mr. Douglas G. Felder
Special Assistant Attorney General
20 S. Clark St., Ste. 2000
Chicago, IL 60603

Dear Mr. Felder:

Receipt is acknowledged of the original and three (3) copies of the Petition filed June 9, 2003 in the above matter.

Processing and Information Section

kl
cc: Mr. Victor A. Modeer, IDOT
Mr. T. Scott Bannister, Heartland Rail Corp.
CT Corporation System, Archer-Daniels
Ms. Alaina Bridges, Chicago DOT

**COPY**

STATE OF ILLINOIS )  
 )  
COUNTY OF COOK ) SS

STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION

**RECEIVED**  
JUN - 9 2003

Illinois Commerce Commission  
RAIL SAFETY SECTION

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

- Petitioner

vs.

HEARTLAND RAIL CORPORATION, an Iowa  
corporation; ARCHER-DANIELS-MIDLAND  
COMPANY, a Delaware corporation; and  
UNKNOWN OWNERS

- Respondents

Petition for approval of the taking or damaging  
of certain properties owned by a commercial trans-  
portation carrier in Cook County, Illinois by  
exercising the right of eminent domain

Case No. 703-0053

Parcel No. OER0017TE-A  
OER0017TE-B

**PETITION FOR APPROVAL TO TAKE PROPERTY**

TO THE ILLINOIS COMMERCE COMMISSION:

Petitioner, THE DEPARTMENT OF TRANSPORTATION of the State of Illinois, a  
Department of the State Government of Illinois, by LISA M. MADIGAN, Attorney General of the  
State of Illinois, and Douglas G. Felder, Special Assistant Attorney General, pursuant to Section 102  
of the Eminent Domain Act of Illinois (735 ILCS 5/7-102) (West 2002), requests approval of the  
Illinois Commerce Commission for the taking and/or damaging of certain properties owned by

**DOCKETED**

HEARTLAND RAIL CORPORATION, an Iowa Corporation (the "Railroad"), a commercial transportation 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, West 2002), Petitioner proposes to widen and resurface FAP 344 (127<sup>th</sup> Street) in Cook County, Illinois.

2 Under the Illinois Highway Code, FAP 344 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, West 2002) provides:

"The Department, or 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 FAP 344 (127<sup>th</sup> Street) is a public improvement project. The improvement project constitutes a public purpose, namely reconstruction and improvement of the roadway, structures and intersections at or adjacent to FAP 344 (127<sup>th</sup> Street) in Cook 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 Cook County, the legal description of which is attached hereto and marked as Exhibit A. This real property is located at or adjacent to FAP 344 (127<sup>th</sup> Street) in Cook County and the Petitioner has

deemed it necessary to improve the roadways, structures and intersections at and along FAP 344 (127<sup>th</sup> Street) in Cook County, and improve vehicular traffic and safety of the motoring public. A copy of the Department's Plat of Highways depicting the property sought to be acquired by the Petitioner is shown on Exhibit B attached hereto.

7 Petitioner has been authorized to acquire a temporary construction easement for three years or the completion of construction, whichever occurs first, as to Parcel OER0017TE-A and B legally described in Exhibit A, and it is necessary for Petitioner to acquire said property for the above-described highway reconstruction and improvement of the structures at and along FAP 344 (127<sup>th</sup> Street) in Cook County for the use of the People of the State of Illinois.

8 The terms of the compensation to be paid by the Petitioner for the property hereinafter described cannot be agreed upon between the Petitioner and the Railroad although Petitioner has attempted to effect such an agreement, or the Petitioner has not otherwise been able to acquire title to the property. Petitioner, therefore, is authorized and desires to proceed to acquire the property under the eminent domain laws of this State.

9 Section 7-102 of the Code of Civil Procedure (735 ILCS 5/7-102) requires Petitioner to obtain approval of the Commission prior to the taking of the Railroad's property described in Exhibit A or the damaging of any remainder property.

WHEREFORE, Petitioner, 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

By: LISA M. MADIGAN  
Attorney General of Illinois

By:   
\_\_\_\_\_  
Douglas G. Felder  
Special Assistant Attorney General

Douglas G. Felder  
Douglas G. Felder, P.C.  
Special Assistant Attorney General  
20 South Clark Street  
Suite 2000  
Chicago, Illinois 60603  
312/634-3509

AFFIDAVIT OF SERVICE

Douglas G. Felder, being first duly sworn, on oath, states that he served the foregoing Petition upon the following addresses at their respective addresses set forth:

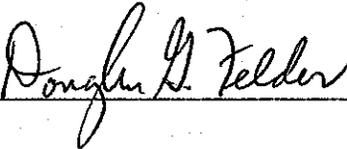
VIA CERTIFIED MAIL AND U.S. MAIL

Illinois Commerce Commission  
527 East Capitol Avenue  
Springfield, Illinois 62708  
(original and three copies)

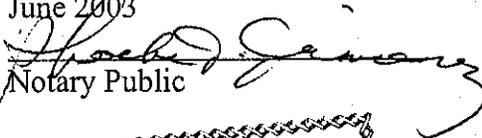
Heartland Rail Corporation  
1300 Des Moines Building  
Des Moines, IA 50309  
Attention: Scott Bannister

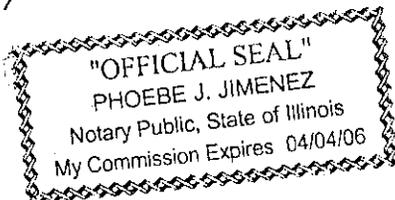
Archer - Daniels - Midland Company  
c/o Registered Agent:  
CT Corporation Systems  
208 South LaSalle Street  
Chicago, IL 60604

by enclosing a copy of said Petition, together with Exhibits A and B 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 Drop Box at 20 South Clark Street, Chicago, Illinois, before 5:00 p.m. on the 3<sup>rd</sup> day of June 2003.

  
\_\_\_\_\_

SUBSCRIBED and SWORN to  
before me this 3<sup>rd</sup> day of  
June 2003

  
Notary Public



**Exhibit A**

Route: F.A.P. 334 (127<sup>th</sup> Street)  
Section: Western to Paulina (RR)  
County: Cook  
Job No.: R-90-027-01  
Parcel: OER0017TE-A  
Stations: 10+841.898 through  
10+903.581  
Owner: Heartland Rail Corporation, an  
Iowa Corporation  
Index #: 25-31-108-001(pt), 25-31-108-  
002, 25-30-315-026, 25-31-116-  
006(pt), & 25-31-123-003

That part of Lot 7 in Ludwig Krueger's Subdivision of the East Half of the Southwest Quarter of Section 30, Township 37 North, Range 14 East of the Third Principal Meridian, according to the plat thereof recorded December 5, 1883 as Document Number 512104, described as follows; Commencing at the intersection of the North Right of Way Line of 127<sup>th</sup> Street and the Easterly Right of Way line of Chicago, Rock Island and Pacific Railroad (Suburban Line); thence North 88 degrees 06 minutes 53 seconds East 230.64 feet along said North line of 127<sup>th</sup> Street to the Point of Beginning; thence North 28 degrees 06 minutes 53 seconds East 19.63 feet; thence North 88 degrees 06 minutes 53 seconds East 195.73 feet; thence South 08 degrees 41 minutes 17 seconds West 17.26 feet to a point on the North Right of Way line of 127<sup>th</sup> Street; thence South 88 degrees 06 minutes 53 seconds West 202.37 along said North Right of Way line to the Point of Beginning , all in Cook County, Illinois.

Said Parcel contains 0.078 acres, more or less.

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JAN 30 2003  
PLATS & LEGALS

Route: F.A.P. 334 (127<sup>th</sup> Street)  
Section: Western to Paulina (RR)  
County: Cook  
Job No.: R-90-027-01  
Parcel: OER0017TE-B  
Stations: 10+975.932 through  
10+988.716  
Owner: Heartland Rail Corporation, an  
Iowa Corporation  
Index #: 25-31-108-001(pt), 25-31-108-  
002, 25-30-315-026, 25-31-116-  
006(pt), & 25-31-123-003

That part of Lot 6 in Ludwig Krueger's Subdivision of the East Half of the Southwest Quarter of Section 30, Township 37 North, Range 14 East of the Third Principal Meridian, according to the plat thereof recorded December 5, 1883 as Document Number 512104, described as follows; Beginning at the intersection of the North Right of Way Line of 127<sup>th</sup> Street and the Westerly Right of Way line of Chicago, Rock Island and Pacific Railroad (Main Line); thence South 88 degrees 06 minutes 53 seconds West 41.94 feet along said North line of 127<sup>th</sup> Street; thence North 13 degrees 11 minutes 14 seconds East 17.61 feet; thence North 88 degrees 06 minutes 53 seconds East 42.54 feet to a point on the said Westerly Right of Way line; thence South 15 degrees 03 minutes 51 seconds West 16.73 feet along said Westerly Right of Way line to a point on said North Right of Way line of 127<sup>th</sup> Street also being the Point of Beginning, all in Cook County, Illinois.

Said Parcel contains 0.016 acres, more or less.

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JAN 30 2003

PLATS & LEGALS

**Exhibit B**

