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January 22, 2002

VIA FACSIMILE AND FEDERAL EXPRESS

Mr. Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W., Room 700
Washington, DC 20006

204484



Re: **Finance Docket No. 33877**
Illinois Central Railroad Company -- Construction and
Operation Exemption -- In East Baton Rouge Parish, LA

Dear Secretary Williams:

We represent Illinois Central Railroad Company ("IC"), the Petitioner in the above-captioned rail line construction proceeding.

By letter dated January 17, 2002, I advised the Board that IC had reached an agreement with the Louisiana Department of Transportation and Development ("DOTD") regarding operation of the proposed at-grade crossing where IC's rail line would cross U.S. Highway 61 in East Baton Rouge Parish. I indicated that IC expected DOTD to formally issue a permit for the crossing shortly.

Attached is a copy of Permit No. 150979 issued January 18, 2002, by DOTD for the proposed crossing (the attached copy does not include the detailed engineering plans attached to the Permit.) The agreement reached last week between the parties pertaining to operation of the crossing--the subject of my letter of January 17, 2002, to the Board--is an attachment to the Permit.

Although it would be procedurally unusual, and was not included in the recommendations of the Board's Section of Environmental Analysis nor requested by the DOTD, if the Board deems it necessary, IC has no objection to the Board making the terms of IC's agreement with DOTD a condition to issuance of exemption authority for construction of the proposed line.

ENTERED
Office of the Secretary

JAN 23 2002

Part of
Public Record

FLETCHER & SIPPEL LLC

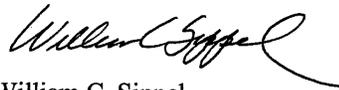
Mr. Vernon A. Williams

January 22, 2002

Page 2

Ten copies of this letter are enclosed for filing along with this original. I certify that a copy of this letter has been served on all parties to this proceeding.

Respectfully submitted,



William C. Sippel
Attorney for Illinois Central
Railroad Company

WCS/kas
Enclosures

Four (4) copies of the application are required.
Four (4) copies of the sketch or
print are required with each application.

DOTD 03-41-0592
REV. 07/83

STATE OF LOUISIANA
DEPARTMENT OF TRANSPORTATION
AND DEVELOPMENT
DRIVEWAY PERMIT
(Required by State Law)

Serial No. 150979

DISTRICT APPROVAL

Control _____ Unit _____

By _____ Date _____

WHEREAS Canadian National Illinois Central Railroad, hereinafter termed the applicant, requests permission and authority to construct (a driveway(s)) described as follows:

~~A railroad crossing at grade of Highway 61, approximately 1400 feet south of Thomas Road intersection, adjacent to Maryland Tank Farm.~~

on the right of way of State Highway Number U. S. 61 in East Baton Rouge Parish, adjacent to his property located on the east & west side of the Highway 0.3 miles south

from U. S. 61 @ Thomas Road Intersection for the purpose of entering a Residence, Gas Station,

Store, Other: Railroad Crossing at Grade

The following is additional information regarding the requested driveway(s):

1. Frontage of lot along highway _____ feet.
2. Depth of lot _____ feet.
3. Number of driveways requested _____ and width of driveways _____ feet.
4. Distance from center line of highway to property line _____ feet.
5. The present surfacing of the highway is _____
6. The surfacing of the proposed driveways is to be _____
7. Setback from right of way line to (A) Buildings _____ feet (B) Gas Pump Islands _____ feet.

The provisions of this application are hereby agreed to and accepted this _____ day of _____ 19_____. Amount of guarantee deposit accompanying this application: _____

SIGNED: J. A. Sensing - Project Engr.
800 Woodlands Ste 105
Ridgeland, MS 39157
601-914-2665

NOTE: This permit shall be available at the site where and when work is being done.

Applicant must notify District Permit specialist, Phone Number: Collins Landry, (225) 231-4130, prior to beginning work and after work is completed.

Date Issued: **January 18, 2002**

Date Expired: **July 18, 2002**

BY: Thomas A. Hand
CHIEF MAINT. & OPERS. ENGINEER
RIGHT OF WAY PERMITS ENGINEER

Construction shall be subject to the following restrictions:

FIRST: That applicant is the owner of the property and that any driveway or approach constructed by him is for the bona fide purpose of securing access to his property and not for the purpose of parking or servicing vehicles on the highway right of way.

SECOND: That all driveways, approaches or other improvements on the right of way, after having been constructed, shall at all times be subject to inspection and the right is reserved to require such changes, additions, repairs and relocations to be made as may at any time be considered necessary to permit the relocation, reconstruction, widening and maintaining of the highway and/or to provide proper and safe protection to life and property on or adjacent to the highway; that the cost of making such changes, additions, repairs and relocations shall be borne by the applicant.

THIRD: That no driveway, approach or other improvement constructed on the right of way as an exercise of this permit shall be relocated or its dimensions altered without the written permission of the Permits Engineer.

FOURTH: That the applicant agrees to hold harmless the Department and its duly appointed agents and employees against any action for personal injury or property damage sustained by reason of the exercise of this permit, whether or not the same may have been caused by the negligence of the Department, its agents or employees, provided, however, that the provisions of this last clause (whether or not the same may have been caused by the negligence of the Department, its agents or employees) shall not apply to any personal injury or property damage caused by the sole negligence of the Department, its agents or employees, unless such sole negligence shall consist or shall have consisted entirely and only of negligence in the granting of a driveway permit or driveway permits.

FIFTH: The location, design and construction of the driveway or driveways described above shall be in accordance with the following rules and regulations:

(a) The frontage of any parcel of property adjacent to a public highway shall be considered to be confined between lines drawn from the intersection of the property lines with the right of way lines of the highway to the roadway surface or to the curbing, if any, and perpendicular to the axis of the highway; or if the axis is a curve, to the center of curvature; or a combination of the two. Those lines shall be known as boundaries.

(b) Generally no more than two (2) combined entrances and/or exits shall be allowed any parcel of property the frontage of which is less than two hundred (200) feet. Additional entrances or exits for parcels of property having a frontage in excess of two hundred (200) feet shall be permitted only after showing of actual convenience and necessity. When frontage is fifty (50) feet or less, only one (1) combined entrance and exit shall be permitted. On 4 lane divided highways consideration will be given to additional entrance driveways provided only one exit driveway is to be constructed.

(c) The width of entrance and/or exit driveways shall be measured at right angles to the driveway. The maximum width driveway permitted for a residence shall be thirty (30) feet. The width of driveways for commercial establishments shall be governed by the angle at which the driveway intersects the highway. When the angle of intersection is between forty-five (45) degrees and sixty (60) degrees the maximum width shall be thirty (30) feet. When the angle of intersection is between sixty-one (61) degrees and ninety (90) degrees, the maximum width shall be thirty-five (35) feet. The area between driveways and on either side of the driveways shall remain unimproved for vehicular travel or parking. This area shall be considered as restricted and may be filled only as hereinafter provided.

(d) The permissible radii on driveway returns shall be governed by the type of driveway to be constructed and shall be as shown on sketches in **STANDARD PLANS FOR DRIVEWAYS**.

(e) The distance between the inner edges of entrance and exit shall be not less than ten (10) feet where they intersect either the right of way line or the road surface.

(f) No entrance or exit shall be so constructed that any part of such entrance or exit shall be less than five (5) feet from the boundaries, as defined above.

(g) The grade of entrance and exit shall slope downward away from the road surface at a rate of not less than one-quarter (1/4) inch in one (1) foot or not more than one (1) inch per foot for a distance of not less than ten (10) feet; provided that when curbing or curb and gutter is removed the entrance and exit shall be constructed of concrete and the grade of entrance and exit shall conform to the grade of sidewalks, if any, and a

neat junction between the apron of the entrance and exit and the sidewalk shall be made. The curbing shall be returned into the entrance and exit on a radius of not less than three (3) feet nor more than fifteen (15) feet.

(h) The construction of parking areas on the highway right of way is specifically prohibited. Those places of business requiring parking space for their customers shall provide same on their own premises.

(i) No driveways parallel to the highway shall be constructed on the right of way in front of gasoline pumps or other structures requiring an outside drive. Such pumps and structures are to be located a minimum distance of ten (10) feet from the right of way line in order that the outside drive shall not encroach on the right of way. (A fifteen (15) foot setback is recommended.)

(j) Drainage in highway side ditches shall not be altered or impeded and the applicant must provide, at his expense, suitable and approved drainage structures at entrances and exits.

(k) The same material may be used for driveways that is used to surface the premises unless the character of traffic or adjacent improvements require concrete.

(l) All entrances and exits shall be so located that vehicles approaching or using them will be able to obtain adequate sight distance in both directions along the highway in order to maneuver safely and without interfering with traffic.

(m) No entrance or exit at the intersection of two state highways shall be within the area between lines drawn perpendicular to the center line, or axis, of the highway from points on the right of way lines a distance of twenty-five (25) feet from the intersection of said right of way lines; provided that this distance may be reduced at the discretion of the Permits Engineer to fifteen (15) feet in the case of a highway intersecting a street; further provided that no part of any entrance or exit be within the radius of any intersecting highway or street; further provided that at intersections where additional right of way has been secured for the highway back of the prolongation of the normal right of way lines in order to provide for the channelization of traffic, or more adequate sight distances, no part of any entrance or exit shall be permitted to encroach on such additional right of way. The areas described above shall be considered as restricted and may be filled only as hereinafter provided.

(n) No entrance or exit at or near a highway intersection where one or both of the highways has a medial divider or neutral ground, at crossings in esplanade, at bridges or other points of special hazard shall be so located that any part of such entrance or exit shall be within the following restricted areas:

1. Those portions of the right of way shown as restricted areas on the Department's standard drawings of approaches and restricted areas which are published in pamphlet form and become a part of this permit as required.
2. Those portions of the right of way that, because of their proximity to special traffic facilities, any entrance or exit constructed thereon would, in the opinion of the Permits Engineer, constitute an undue delay and confusion.

(c) The area between entrance and exit, and those portions of the right of way which have been defined hereinabove as restricted areas, may be filled in only when the following requirements have been fully complied with:

1. That surface drainage shall be provided so that all surface water on the filled in areas shall be carried away from the highway roadbed in a suitable manner. The drainage opening underneath the filled in area shall be adequate to carry the water in the highway side ditches.
2. That permanent provision is made to separate the filled in area from the highway and from the driveways to prevent its use for entrance or exit, or for parking, by the construction of a six (6) inch vertical face concrete curb and gutter, or the erection of steel, concrete or creosoted timber posts, thirty (30) inches high and spaced with a maximum spacing of five (5) feet center to center. Curb or posts shall not be placed closer than ten (10) feet nor farther than twelve (12) feet from the outside edge of the highway pavement or surfacing. These posts are to be painted white.

(p) Data relative to the proposed location, relocation, design and construction of driveways as may be required by the Permits Engineer shall be furnished by the applicant free of cost. The applicant shall make any and all changes or additions necessary to make the proposed driveways or approaches satisfactory to the Permits Engineer.

(q) A guarantee deposit, in the amount shown in the schedule of deposits printed below, in the form of a corporation check, certified

check, cashier's check or money order shall accompany the application for permit. This deposit is to insure the satisfactory completion of the work authorized by the granting of the application for permit which it accompanies and will be refunded upon receipt of notice from the District Administrator that the work has been satisfactorily completed. Failure to comply with the terms of the permit will result in forfeiture of the deposit, which said forfeiture however shall not be made until said applicant has been given thirty days notice by certified mail at his last known address to comply with the terms of the permit. Guarantee deposits shall also be forfeited to the Department if the terms of the permit remain unsatisfactory or the deposit has not been claimed after the elapse of five (5) years from the date of issuance of the permit. The forfeiture of said deposit shall in no way relieve the applicant from any other claim for damages and costs suffered by the Department due to his failure to comply with said permit. All funds forfeited shall be deposited in the state general fund.

(r) That, signing for warning and protection of traffic in instances where excavations are made in the shoulder of the roadway, or in the roadway surfacing, or where workmen, equipment or materials are in close proximity to the roadway surfacing, shall be in accordance with requirements contained in the Department's Manual on Uniform Traffic Control Devices.

DRIVE-IN THEATRE ENTRANCES

1. All applications for entrance and exit facilities to drive-in theatres, as well as to any other enterprise which generates a heavy concentration of traffic, shall be accompanied by a plan drawing and an area sketch drawn to scale.
2. The position of the screen is to be such that the picture is not visible from the main highway.
3. The ticket office is to be located so as to provide a storage area between it and the right of way line for an equivalent of 15% of the

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- rated vehicle capacity of the theatre. The total storage area inside and outside of the ticket office shall be the equivalent of 30% of the rated vehicle capacity of the theatre. The parking or storage of vehicles on the highway, or within the limits of the highway right of way will not be permitted.
4. The entrance and exit shall be clearly defined by signs installed off the highway right of way.
 5. Manual control, either by deputized officers on the highway or by theatre personnel off the highway, shall be used at the exits to regulate traffic when the theatre is emptying. Undue delay to through traffic on the highway will not be permitted. When deemed necessary by the Department the applicant shall install, operate and maintain a traffic signal as directed by the Department.

LIMITED ACCESS HIGHWAYS

On those highways which have been designated as limited access highways or along which service roads have been constructed, driveways will be permitted to connect only to the service roads and not to the main traveled highways.

SCHEDULE OF DEPOSITS

For one or more driveways:

- A. When surfacing is dirt, gravel, shell, etc., and no area other than driveways is to be filled.
 1. Residential None
 2. Commercial 0.50 cents per linear foot of drainage pipe to be installed.
- B. When surfacing is dirt, gravel, shell, etc., and area other than driveways is to be filled.
 1. All 0.50 cents per linear foot of drainage pipe to be installed plus \$25.00 per surface drain, catch basin or junction box.
- C. When surfacing is concrete or other type of hard surfacing.
 1. All \$2.00 per square yard of surfacing to be constructed on highway right of way. When curb or curb and gutter is removed the required deposit shall be \$2.00 per linear foot of curb to be removed or \$2.00 per square yard of concrete to be constructed on highway right of way, whichever is greater.

A sketch is required on each copy of the application
No permit will be issued without the required sketch.

SUPPLEMENT TO DRIVEWAY PERMIT
BY ICRR DATED OCTOBER 19, 2000 TO
CROSS US 61 IN EAST BATON ROUGE PARISH, LOUISIANA

1.

The crossing by Illinois Central Railroad ("ICRR") of US 61 allowed by the permit shall be an at grade crossing approximately 1,400 feet south of Thomas Road in East Baton Rouge Parish and as set forth in the plans dated June 15, 2001.

2.

ICRR and any other carrier properly authorized by ICRR will confine its operations over the crossing to the period between 10:00 p.m. and 5:00 a.m. daily and, except in emergencies, to avoid operations over the crossing during the peak highway traffic times being between 7:00 a.m. and 10:00 a.m., and between 3:30 p.m. and 7:30 p.m. Monday through Friday.

3.

The Department of Transportation and Development ("DOTD") acknowledges and understands that ICRR's compliance with its common carrier obligations may, from time to time, require operations over the crossing inconsistent with those times set forth hereinabove.

4.

ICRR agrees to meet its obligations without having to operate over the crossing during the peak traffic times set forth above. However, in the event it should become necessary for ICRR to cross at the permit location during the peak

traffic hours, or for any planned crossing other than during the time limitations set forth herein (other than an unforeseen, isolated occurrence not within the peak traffic hours), ICRR shall request, in writing, a waiver for a specific period of time, giving the reasons therefore, and will coordinate its operations with local law enforcement officials and DOTD, or DOTD's designee.

5.

ICRR agrees to maintain data concerning date, time, and duration of crossings by trains at the permit location and ICRR will use reasonable efforts to collect data concerning vehicular traffic volume on US 61 at the permit location. The data collected will be solely for the purposes of the Federal Railroad Safety Program and will be considered by ICRR and DOTD as protected by 23 USC § 409 from disclosure to any third person. ICRR will submit the data collected annually to DOTD along with any increases in rail traffic it reasonably predicts to occur within the five years following the date of the report. DOTD will evaluate the report and discuss same with ICRR to determine if it is reasonably anticipated that future usage of the crossing may meet the guidelines of the United States Department of Transportation (as published by the Technical Working Group of the USDOT) so as to consider whether the guidelines may require a grade separated crossing at the permit location within the next ten years taking into account the limited hours of operation and vehicular traffic at the times of crossing.

6.

At such time as the crossing might meet within ten years the guidelines of the United States Department of Transportation (as published by the Technical Working Group of the USDOT) for determining when a highway rail grade crossing should be considered for grade separation, ICRR and DOTD shall meet to review the data and explore the feasibility of and funding options for constructing a grade separated crossing. Before determining that construction of a grade separated crossing is warranted, the parties shall explore whether changes in rail operations or other practicable changes could be made that would make construction of a grade separated crossing unnecessary.

THUS AGREED on the dates written hereinbelow.

DEPARTMENT OF TRANSPORTATION AND
DEVELOPMENT, OFFICE OF HIGHWAYS

By: William Temple
William Temple, Chief Engineer

Date: 1-17, 2002

ILLINOIS CENTRAL RAILROAD COMPANY

By: [Signature]

Date: 1-17, 2002