

ROW-ROE

BOOK 297 PAGE 246

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STATE MS.-DESOTO CO.

Burlington Northern ~~Santa Fe~~ Railroad

FILED

016-0-00-E; 016-0-00-T

Do not record above this line

BK 297 PG 246 RIGHT OF ENTRY AGREEMENT
W.E. DAVIS CH. CLK.

FEB 20 1996

THIS AGREEMENT made and entered into by and between BURLINGTON NORTHERN ~~SANTA FE~~ RAILROAD, hereinafter called "Railroad", and the Mississippi Transportation Commission called "Commission";

WITNESSETH THAT:

WHEREAS, Commission desires Railroad to grant Commission the right to enter on, over and across certain of Railroad's land in DeSoto County, Mississippi for the construction of Mississippi Highway 302 and Germantown Road overpass structures and Detour Road, and

WHEREAS, the land of the Railroad on, over and across which the Commission desires to enter for the purpose of constructing railroad overpass is located in DeSoto County, Mississippi and more particularly described as follows, to-wit:

016-0-00-E

TOWNSHIP 1 SOUTH, RANGE 6 WEST, DESOTO COUNTY, MISSISSIPPI

PARCEL NO. 1

Section 28: City of Olive Branch

Begin at the point of intersection of the proposed Northerly right-of-way line of Mississippi Highway No. 302 with the present Northeasterly right-of-way line of Burlington-Northern (Frisco) Railroad as shown on the plats for State Project No. 97-0021-01-014-10 said point being 175.199 meters (574.8 feet) South of and 206.075 meters (676.1 feet) East of said railroads Mile Maker 501; from said point of beginning run thence South 46° 02' East along the present Northeasterly right-of-way line of said railroad, a distance of 155.585 meters (510.45 feet) to the proposed Southerly right-of-way line of said highway; thence run Southwesterly along the proposed Southerly

right-of-way line, an arc distance of 34.484 meters (113.14 feet) to the present Southwesterly right-of-way line of said railroad; thence run North 46° 02' West along the present Southwesterly right-of-way line of said railroad, a distance of 145.136 meters (476.17 feet) to the proposed Northerly right-of-way line of said highway; thence run North 54° 32' East along the proposed Northerly right-of-way line of said highway, a distance of 31.004 meters (101.72 feet) to the point of beginning and containing 49,309.487 square feet, 0.458 hectares, (1.13 acres), more or less.

All of the above parcel being situated in and a part of the Northeast 1/4 of the Southeast 1/4 of Section 28, City of Olive Branch.

PARCEL NO. 2

Sections 28 & 27: City of Olive Branch

Begin at the point of intersection of the proposed Westerly right-of-way line of a local road (known as Germantown Road) with the present Northeasterly right-of-way line of Burlington Northern (Frisco) Railroad as shown on the plats for State Project No. 97-0021-01-014-10 said point being 373.356 meters (1224.92 feet) South of and 411.462 meters (1349.94 feet) East of said railroads Mile Maker 501; from said point of beginning run thence South 46° 02' East along the present Northeasterly right-of-way line of said railroad, a distance of 172.165 meters (564.85 feet) to the proposed Easterly right-of-way line of said local road; thence run South 46° 22' West along the proposed Easterly right-of-way line of said local road, a distance of 30.507 meters (100.09 feet) to the present Southwesterly right-of-way line of said railroad; thence run North 46° 02' West along the present Southwesterly right-of-way line of said railroad, a distance of 141.416 meters (463.96 feet) to the proposed Westerly right-of-way line of said local road; thence run North 00° 04' West along the proposed Westerly right-of-way line of said local road, a distance of 42.397 meters (139.10 feet) to the point of beginning and containing 51,440.563 square feet, 0.478 hectares (1.18 acres), more or less.

All of the above parcel being situated in and a part of the Northeast 1/4 of the Southeast 1/4 of Section 28 and the

Northwest 1/4 of the Southwest 1/4 of Section 27, City of Olive Branch.

Parcel Nos. 1 and 2 contain in the aggregate of 100,750.050 square feet, 0.936 hectares, (2.31 acres), more or less.

Together with any and all abutters rights of access, if any, in, to, over, on and across the above described parcel of land.

016-0-00-T

TOWNSHIP 1 SOUTH, RANGE 6 WEST, DESOTO COUNTY, MISSISSIPPI

Section 28: City of Olive Branch.

Begin at the point of intersection of the proposed Northerly right-of-way line of Mississippi Highway No. 302 with the present Northeasterly right-of-way line of Burlington Northern (Frisco) Railroad as shown on the plats for State Project No. 97-0021-01-014-10, said point being 175.199 meters (574.8 feet) South of and 206.075 meters (676.1 feet) East of said railroads Mile Marker 501; from said point of beginning run thence South 54° 32' West along the proposed Northerly right-of-way line of said highway, a distance of 31.005 meters (101.72 feet) to the present Southwesterly right-of-way line of said railroad; thence run North 46° 02' West along the present Southwesterly right-of-way line of said railroad, a distance of 18.603 meters (61.03 feet); thence run North 60° 03' East, a distance of 31.719 meters (104.07 feet) to the present Northeasterly right-of-way line of said railroad; thence run South 46° 02' East along the present Northeasterly right-of-way line of said railroad, a distance of 15.502 meters (50.86 feet) to the point of beginning and containing 5,594.646 square feet, 0.052 hectares (0.13 acres, more or less).

All of the above being situated in and a part of the Northeast 1/4 of the Southeast 1/4, City of Olive Branch.

WHEREAS, Railroad does hereby, in consideration of Five Hundred Dollars (\$500.00), grant to Commission, its agents, contractors and employers authority and right to enter upon the above described premises for the purpose of constructing railroad Overpass and Detour Road as described above, and

WHEREAS, the right hereby granted to enter on, over, and across the above described premises is limited to such rights as Railroad may have in the above described premises, is granted without warranty express or implied and is subject to existing rights in third parties, if any, and

WHEREAS, Commission agrees for itself, its agents, contractors and employees, not to disturb Railroad's property adjacent to the above described premises in any way without first making appropriate arrangements with Railroad for such use, and

WHEREAS, it is hereby understood that Railroad assumes no liability for injury to or death of persons or loss of or damage to property arising or growing out of or which may be due, in any manner, to or in connection with the aforesaid use of said premises, and

WHEREAS, Commission shall and hereby agrees to require its contractors or its assigns or their contractors, to secure for Railroad, as named insured, Railroad Protective Liability Insurance policy with coverage in amounts of \$2,000,000/\$6,000,000 for bodily injury coverage and for property damage coverage under the policy, and

WHEREAS, it will become necessary for Commission, subsequent to this Right of Entry, to acquire certain temporary and permanent property rights from Railroad on, over, and across the above

described premises for use in constructing and maintaining said overpasses and Detour Road, and

WHEREAS, the Commission agrees to reimburse the railroad directly for all cost of flagging which is required on account of construction of the grade separation project within Railroad's right-of-way which is shown in the project plans, or which is covered by an approved plan revision, Supplemental Agreement or Change Order. The Railroad agrees to furnish the Commission an estimate of these costs in a separate agreement at a later date.

NOW THEREFORE, it is convened and agreed by and between the parties hereto that all stipulations and agreements contained herein and all obligations assumed shall be binding upon the parties hereto, their successors and assigns forever.

IN TESTIMONY WHEREOF, the parties hereto have executed and acknowledged this instrument as their free and voluntary acts in duplicate original as of the 16th day of February, 1996.

ATTEST:

BURLINGTON NORTHERN ~~STATE~~ RAILROAD

By: _____
Assistant Secretary

By: J. Allen Zuker
(Signed) J. ALLEN ZUKER
COORDINATOR PUBLIC PROGRAMS

ATTEST:

MISSISSIPPI TRANSPORTATION COMMISSION

BY: _____

By: [Signature]

FEB 20 1998

In the case of corporations:

STATE OF MISSOURI

COUNTY OF GREENE

Personally appeared before me, the undersigned authority in and for the said county and state, on this 16 day of FEBRUARY, 1996, within my jurisdiction, the within named J. ELLEN KUHN

who acknowledged that (he) (~~she~~) is MANAGER PUBLIC PROJECTS of

BURLINGTON NORTHERN R.R. Co.

a DELEWARE corporation, and that for and on behalf of the said corporation, and as its act and deed (he) (~~she~~) executed the above and foregoing instrument, after first having been duly authorized by said corporation so to do.

Errol R King (NOTARY PUBLIC)
Errol R. King, Notary Public
County of Greene, State of Missouri
My Commission Expires Jan. 15, 1998

My commission expires:

January 15, 1998

