

12-10

#1604

IN THE DISTRICT COURT OF CASS COUNTY, NEBRASKA

ADOLPH L. FEDDE and MARY ANN)
 FEDDE, Husband and Wife;)
 RODNEY FEDDE; and)
 CASS COUNTY, NEBRASKA;)
)
 Condemnees,)
)
 vs.)
)
 BNSF RAILWAY COMPANY,)
 A Delaware Corporation,)
)
 Condemner.)

Case No. CI 07-44

ORDER OF DISMISSAL

FILED
CASS COUNTY, NE.

2007 MAR 22 PM 4:54

BK 66 Misc. PG 395

David Johnson
REGISTER OF DEEDS
Doc # 1604 \$20.50

DELLA P. SULLIVAN
CLERK

07 MAR 22 PM 3:20

FILED
DISTRICT COURT
CASS COUNTY, NEBR.


This matter having come on for hearing pursuant to the Stipulation for Dismissal of Appeal, and the Court being fully advised in the premises, **HEREBY ORDERS, ADJUDGES AND DECREES AS FOLLOWS:**

1. That the appeal by BNSF from Cass County Court, Case No. CI 06-768, should be and hereby is dismissed with prejudice, each party to pay their own costs;
2. That the Award of Appraisers in Cass county Court, Case No. CI 06-768, should be and hereby is set aside in its entirety and is no further force and effect;
3. That BNSF is hereby ordered to execute and file with the Register of Deeds of Cass County, Nebraska, a quitclaim deed to the Condemnees, reconveying the property previously taken herein by condemnation, described in the Award of Appraisers as Parcels 1, 2 and 3;
4. That the parties should be and hereby are ordered to comply with the terms and conditions of the Settlement Agreement attached to the Stipulation for Dismissal of Appeal filed herein;
5. That the Clerk of the District Court of Cass County, Nebraska, is hereby ordered (a) to transmit a copy of this Order to the Cass County Court directing the Cass

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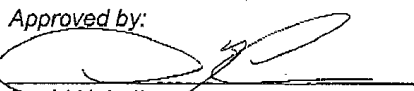
County Court to pay out monies of Twenty-five Thousand Dollars (\$25,000.00) to Adolph Fedde and Mary Ann Fedde; Ten Thousand Dollars (\$10,000.00) to Rodney Fedde; and the balance of the funds deposited by BNSF with the Cass County Court pursuant to the Award of Appraisers be returned to the BNSF Railway Company; and (b) to transmit a copy of this Order to the Cass County Register of Deeds for recording and indexing against all parcels of real estate identified in the Award of Appraisers thereby setting aside the Award of Appraisers recorded on January 16, 2007, in the Cass County Register of Deeds as Document No. 296, at Book 66, Page 189.

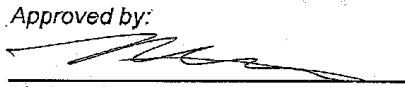
DATED this 22nd day of March, 2007.


 Randall L. Rehmeier
 District Court Judge

Prepared by:
 Jack G. Wolfe (#14593)
 Wolfe, Snowden, Hurd, Luers & Ahl, LLP
 Suite 800, Wells Fargo Center
 1248 "O" Street
 Lincoln, Nebraska 68508
 PH: (402) 474-1507
 FAX: (402) 474-3170
 Attorney for BNSF Railway Company

STATE OF NEBRASKA, Cass County, SS
 I, Della P. Sullivan, Clerk of the District Court in and for said County, do hereby certify that the foregoing is a full and correct copy of the original instrument duly filed and of record in this Court.
 WITNESS my hand and the seal of said Court at Plattsmouth, Nebraska, this 22nd day of March, 2007.
 by Barbara K. Holsinger
 Clerk of the District Court
 Deputy Clerk

Approved by:

 David N. Lutton
 Lutton Law Office
 Citizens National Bank Bldg.
 1442 Silver Street
 Ashland, Nebraska 68003
 PH: (402) 944-3383
 FAX: (402) 944-2211
 Attorney for Condemnees

Approved by:

 Nathan Cox
 Cass County Attorney
 346 Main Street
 Plattsmouth, Nebraska 68048
 PH: (402) 296-9346
 FAX: (402) 296-9350
 Attorney for Condemnee

Commencing at the Northwest corner of said Northeast Quarter (NE 1/4); thence South 1519.03 feet, along the West line of said Northeast Quarter (NE 1/4), to a point on the Northern right-of-way line of the Burlington Northern Santa Fe Railway Company, a distance of 143.28 feet to the true point of beginning; thence continuing 43 degrees 32 minutes 42 seconds left, along said Northern right-of-way line of the Burlington Northern Santa Fe Railway Company, a distance of 143.28 feet to the true point of beginning; thence continuing Southeasterly along said Northern right-of-way line of the Burlington Northern Santa Fe Railway

Fee simple title to a tract of land and all improvements thereon, if any, for railway purposes located in the Northeast Quarter (NE 1/4) of Section 9, Township 12 North, Range 10 East of the Sixth Principal Meridian, Cass County, Nebraska. Said easement being more particularly described as follows:

As to Parcel No. 3:

Commencing at the Southwest corner of said Northeast Quarter (NW 1/4); thence West 1605.47 feet, along the South line of said Northeast Quarter (NE 1/4), to a point on the Northern right-of-way line of the Burlington Northern Santa Fe Railway Company, thence Northwesterly along said Northern right-of-way line of the Burlington Northern Santa Fe Railway Company, a distance of 60.94 feet to a point on the Southern right-of-way line of Interstate Highway 80, thence Northerly right-of-way line of Interstate Highway 80, a distance of 51.00 feet to a point on a line 50.00 feet Northerly of and parallel to said Northern right-of-way line of the Burlington Northern Santa Fe Railway Company, thence Southeasterly, with a deflection angle of 101 degrees 22 minutes 56 seconds right, along said line 50.00 feet Northerly of and parallel to said Northern right-of-way line of the Burlington Northern Santa Fe Railway Company, a distance of 71.00 feet to a point, thence Southwesterly, with a deflection angle of 90 degrees 00 minutes 00 seconds right, a distance of 50.00 feet to the point of beginning. Said easement contains 0.08 acres, more or less.

A fee simple title to a tract of land and all improvements thereon, if any, for railway purposes located in the Northeast Quarter (NE 1/4) of Section 9, Township 12 North, Range 10 East of the Sixth Principal Meridian, Cass County, Nebraska. Said easement being more particularly described as follows:

As to Parcel No. 2:

Beginning at the Southwest corner of said Southeast Quarter (SE 1/4); thence North 108.76 feet, along the West line of said Southeast Quarter (SE 1/4), to a point, thence Northeasterly, with a deflection angle of 19 degrees 20 minutes 27 seconds right, a distance of 224.50 feet to a point of curvature; thence Northeasterly, on a curve to the right, said curve having a radius of 415.00 feet, a deflection angle of 61 degrees 37 minutes 16 seconds right, an arc length of 446.33 feet and a long chord of 425.13 feet to a point of reverse curvature; thence Northeasterly, on a curve to the left, said curve having a radius of 300.00 feet, a deflection angle of 68 degrees 49 minutes 49 seconds left, an arc length of 360.40 feet and a long chord of 339.11 feet to a point of tangency; thence Northeasterly, a distance of 243.54 feet to a point of curvature; thence Northeasterly, on a curve to the left, said curve having a radius of 400.00 feet, a deflection angle of 9 degrees 52 minutes 23 seconds left, an arc length of 68.93 feet and a long chord of 68.84 feet to a point of tangency; thence Northerly, a distance of 557.55 feet to a point of curvature; thence Northeasterly, on a curve to the right, said curve having a radius of 500.00 feet, a deflection angle of 6 degrees 24 minutes 45 seconds right, an arc length of 559.59 feet and a long chord of 559.30 feet to a point of tangency; thence Northeasterly, a distance of 346.78 feet to a point on the Southern right-of-way line of the Burlington Northern Santa Fe Railway Company. Said easement contains 2.00 acres, more or less.

A non-exclusive permanent easement through a tract of land located in the Southeast Quarter (SE 1/4) of Section 9, Township 12 North, Range 10 East of the Sixth Principal Meridian, Cass County, Nebraska. Said easement being thirty (30) feet wide and also being fifteen (15) feet on both sides of the following-described centerline:

As to Parcel No. 1:

EXHIBIT "A"

#1604

Company, a distance of 781.41 feet to a point on the Northerly right-of-way line of Interstate Highway 80; thence Northeasterly, with a deflection angle of 101 degrees 22 minutes 56 seconds left, along said Northerly right-of-way line of Interstate Highway 80, a distance of 70.70 feet to a point; thence Northerly, with a deflection angle of 30 degrees 32 minutes 08 seconds left, along said Northerly right-of-way line of Interstate Highway 80, a distance of 58.13 feet to a point; thence Northeasterly, with a deflection angle of 33 degrees 09 minutes 09 seconds right, along said Northerly right-of-way line of Interstate Highway 80, a distance of 84.94 feet to a point; thence Northwesterly, with a deflection angle of 90 degrees 00 minutes 00 seconds left, a distance of 65.36 feet to a point of curvature; thence Westerly, on a curve to the left, said curve having a radius of 40.00 feet, a deflection angle of 79 degrees 44 minutes 15 seconds left, an arc length of 55.67 feet and a long chord of 51.28 feet to a point of tangency; thence Southwesterly, a distance of 39.64 feet to a point of curvature; thence Westerly, on a curve to the right, said curve having a radius of 60.00 feet, a deflection angle of 88 degrees 30 minutes 11 seconds right, an arc length of 92.68 feet and a long chord of 83.74 feet to a point of tangency on a line 50.00 feet Northerly of and parallel to said Northerly right-of-way line of the Burlington Northern Santa Fe Railway Company; thence Northwesterly, along said line 50.00 feet Northerly of and parallel to said Northerly right-of-way line of the Burlington Northern Santa Fe Railway Company, a distance of 556.17 feet to a point; thence Southwesterly, with a deflection angle of 90 degrees 00 minutes 00 seconds left, a distance of 50.00 feet to the point of beginning. Said easement contains 1.29 acres more or less.