

**SOUND TRANSIT
STAFF REPORT**

RESOLUTION NO. R2009-20

Property Acquisition for Commuter Rail Seattle to Tacoma Track & Signal Project

Meeting:	Date:	Type of Action:	Staff Contact:	Phone:
Finance Committee	11/5/09	Discussion/Possible Action to Recommend Board Approval	Jim Edwards, Director of Capital Projects	(206) 398-5389
Board	11/12/09	Action	Jordan Wagner, Legal, General Counsel Don Vogt, Senior Real Estate Representative	(206) 398-5224 (206) 689-3396

Contract/Agreement Type:	✓	Requested Action:	✓
Competitive Procurement		Execute New Contract/Agreement	
Sole Source		Amend Existing Contract/Agreement	
Agreement with Other Jurisdiction(s)		Budget Amendment	
Real Estate	✓	Property Acquisition	✓

PROJECT NAME

ST2 Seattle to Tacoma Track & Signal Project

PROPOSED ACTION

Authorizes the chief executive officer to acquire, dispose, or lease certain real property interests by negotiated purchase, by condemnation (including settlement), by condemnation litigation, or by administrative settlement; and to pay eligible relocation and re-establishment benefits to affected parties as necessary for the Sounder Commuter Rail ST2 Seattle to Tacoma Track & Signal Project.

KEY FEATURES of PROPOSED ACTION

- Authorizes the acquisition, by condemnation if necessary, of certain Burlington Northern Santa Fe Railway (BNSF) property interests needed for additional commuter rail service in the Seattle to Tacoma corridor.
- Staff will return for Board approval if Sound Transit and BNSF reach a negotiated agreement or settlement for the purchase of the property interests in the Seattle to Tacoma corridor.

BUDGET IMPACT SUMMARY

Current Project Phase: Right of Way
Projected Completion Date: 2015

There is no action outside of the Board-adopted budget; there are no contingency funds required, no subarea impacts, or funding required from other parties other than what is already assumed in the financial plan.

BUDGET and FINANCIAL PLAN DISCUSSION

The Adopted 2009 Budget for the project is \$190,760,657. The Seattle – Auburn segment (#510) is \$104,842,057 and the Auburn – Tacoma segment (#520) is \$85,918,600. The total right of way budget is \$185,001,447, with \$101,676,795 budgeted in the Seattle – Auburn segment and \$83,324,652 in the Auburn – Tacoma segment. Through August of 2009, \$2,000 has been committed in the right of way

phase. The acquisition costs of specific easements or parcels are appropriate for discussion with Board members in Executive Session.

There are sufficient funds to complete this action within the project's construction phase budget. Committing these funds will not endanger any other project elements that are to be funded out of the overall project.

BUDGET TABLE

Summary for Board Action (Year of Expenditure \$000)

Project: 510 - ST2 Seattle-Auburn Track & Signal

	2009 Board Adopted Budget ¹ (A)	Committed To Date ² (B)	This Action (C)	Total Committed & Action (D)	Uncommitted (Shortfall) (E)
Agency Administration	\$ 3,054	\$ 3,054	\$ -	\$ 3,054	\$ -
Preliminary Engineering	\$ 112	\$ 3	\$ -	\$ 3	\$ 108
Final Design	\$ -	\$ -	\$ -	\$ -	\$ -
Right of Way	\$ 101,677	\$ 1	\$ -	\$ 1	\$ 101,676
Construction	\$ -	\$ -	\$ -	\$ -	\$ -
Vehicles	\$ -	\$ -	\$ -	\$ -	\$ -
Contingency	\$ -	\$ -	\$ -	\$ -	\$ -
Total Current Budget	\$ 104,842	\$ 3,058	\$ -	\$ 3,058	\$ 101,784

Notes:

¹ Project budget is located on page 138 of the Adopted 2009 Budget book. The 2009 Budget was adopted by the Board on December 11, 2008.

² Committed to date amount includes actual outlays and commitments through August 31, 2009.

Summary for Board Action (Year of Expenditure \$000)

Project: 520 - ST2 Auburn - Tacoma Track & Signal

	2009 Board Adopted Budget ¹ (A)	Committed To Date ² (B)	This Action (C)	Total Committed & Action (D)	Uncommitted (Shortfall) (E)
Agency Administration	\$ 2,502	\$ 2,502	\$ -	\$ 2,502	\$ -
Preliminary Engineering	\$ 91	\$ 3	\$ -	\$ 3	\$ 89
Final Design	\$ -	\$ -	\$ -	\$ -	\$ -
Right of Way	\$ 83,325	\$ 1	\$ -	\$ 1	\$ 83,324
Construction	\$ -	\$ -	\$ -	\$ -	\$ -
Vehicles	\$ -	\$ -	\$ -	\$ -	\$ -
Contingency	\$ -	\$ -	\$ -	\$ -	\$ -
Total Current Budget	\$ 85,919	\$ 2,506	\$ -	\$ 2,506	\$ 83,413

Notes:

¹ Project budget is located on page 139 of the Adopted 2009 Budget book. The 2009 Budget was adopted by the Board on December 11, 2008.

² Committed to date amount includes actual outlays and commitments through August 31, 2009.

SMALL BUSINESS PARTICIPATION

Not applicable to this action.

PROJECT DESCRIPTION and BACKGROUND for PROPOSED ACTION

ST2 provides for the expansion of service between Lakewood and Seattle of four additional and perpetual round trips per day through the acquisition of commuter rail easements.

Sound Transit seeks authority to acquire four commuter rail easements over BNSF's Seattle to Tacoma mainline corridor that are needed in order to enable Sound Transit to run four additional round trips per weekday. Acquisition of these easements will leave BNSF with full authority and capacity to operate its freight lines and will not impact any of BNSF's common carrier rights or obligations under federal law.

If Sound Transit intends to preserve the ability to use federal funds on the project, then Sound Transit will not condemn or otherwise acquire these property interests until approval is obtained from the Federal Transit Administration. If Sound Transit and BNSF reach a negotiated agreement or settlement for the purchase of the property interests in the Seattle to Tacoma corridor Board approval will be requested and the request will be accompanied by any necessary environmental review.

CONSEQUENCES OF DELAY

The acquisition of perpetual rights to operate four additional roundtrips is necessary to expand commuter rail service between Lakewood and Seattle. A delay in acquiring easement rights could result in a delay in implementing the additional commuter rail roundtrips between Lakewood and Seattle.

ENVIRONMENTAL COMPLIANCE

SSK 10-28-09

LEGAL REVIEW

JW 10/19/09

SOUND TRANSIT

RESOLUTION NO. R2009-20

A RESOLUTION of the Board of the Central Puget Sound Regional Transit Authority authorizing the chief executive officer to acquire, dispose, or lease certain real property interests by negotiated purchase, by condemnation (including settlement), by condemnation litigation, or by administrative settlement; and to pay eligible relocation and re-establishment benefits to affected parties as necessary for the Sounder Commuter Rail ST2 Seattle to Tacoma Track & Signal Project.

WHEREAS, the Central Puget Sound Regional Transit Authority, hereinafter referred to as Sound Transit, has been created for the Pierce, King, and Snohomish Counties region by action of their respective county councils pursuant to RCW 81.112.030; and

WHEREAS, Sound Transit is authorized to plan, construct, and operate a high-capacity system of transportation infrastructure and services to meet regional public transportation needs in the Central Puget Sound region; and

WHEREAS, in general elections held within the Central Puget Sound Regional Transit Authority district on November 5, 1996 and November 4, 2008, voters approved local funding to implement a regional high-capacity transportation system for the Central Puget Sound region; and

WHEREAS, the ST2 plan provides for the expansion of high capacity commuter rail service between Seattle and Tacoma with four additional round trips per day; and

WHEREAS, in order to acquire the properties determined to be necessary for the operation and maintenance of project improvements required under ST2, it is necessary for Sound Transit to acquire by negotiated purchase or to condemn certain rights in the property for public purposes, and to pay eligible relocation and re-establishment benefits to affected parties; and

WHEREAS, Sound Transit has identified certain real properties as necessary for the construction and permanent location of the Sounder Commuter Rail ST2 Seattle to Tacoma Track & Signal Project, and they are reasonably described in Exhibit A of this resolution; and

WHEREAS, on October 27, 2009, Sound Transit mailed certified letters to property owners affected by this action and also published newspaper notices in compliance with state law regarding public notification; and

WHEREAS, Sound Transit has commissioned or will commission appraisals to determine the fair market value of the properties, and will continue to negotiate in good faith with the owners of the properties authorized to be acquired by negotiated purchase or condemned, with the intent of reaching agreements for the voluntary acquisition of the property for fair market value; and

WHEREAS, the funds necessary to acquire the property by voluntary purchase or to pay just compensation adjudged due after condemnation and the funds necessary to pay eligible relocation and re-establishment costs shall be paid from Sound Transit general funds.

NOW THEREFORE BE IT RESOLVED by the Board of the Central Puget Sound Regional Transit Authority as follows:

SECTION 1. The chief executive officer is hereby authorized to execute such agreements as are customary and necessary for the acquisition, lease, or disposal of the real property interests described in Exhibit A (said property to be used for the Sounder Commuter Rail ST2 Seattle to Tacoma Track & Signal Project) and incorporated herein by reference, and for the payment of eligible relocation and re-establishment costs. In accordance with Sound Transit's adopted Real Property Acquisition and Relocation Policies, Procedures and Guidelines, the acquisition price of the properties shall not exceed the fair market value to be determined through the appraisal process; provided that in the event the total of the acquisition, relocation, and re-establishment costs of the properties for the Sounder Commuter Rail ST2 Seattle to Tacoma Track & Signal Project exceeds Sound Transit's approved budget for right-of-way acquisition (plus contingency), then the chief executive officer shall obtain approval from the appropriate committee or the Board, per Resolution No. 78-1, before the acquisition of the property for the Sounder Commuter Rail ST2 Seattle to Tacoma Track & Signal Project by purchase or by condemnation and the payment of eligible relocation and re-establishment costs.

SECTION 2. The chief executive officer or her designee is hereby authorized to settle condemnation litigation or enter administrative settlements (a settlement in lieu of initiating condemnation litigation) for the acquisition of the real property interests described in Exhibit A, subject to additional Board authorization for approval of any such settlement. Such settlements shall be made only upon the finding of legal counsel that the settlement is consistent with the law and is reasonable, prudent, and in the public interest. Such settlements shall not exceed established project budgets. For all other settlements proposed, the chief

executive officer shall obtain prior approval of the appropriate committee or the Board, per Resolution No. 78-1.

SECTION 3. The Sound Transit Board deems the Sounder Commuter Rail ST2 Seattle to Tacoma Track & Signal Project to be a public use for a public purpose. The Board deems it necessary and in the best interests of the citizens residing within Sound Transit's boundaries to acquire the property identified in Exhibit A as being necessary for the construction, operation, and permanent location of the Sounder Commuter Rail ST2 Seattle to Tacoma Track & Signal Project, parties be paid relocation and re-establishment costs associated with displacements from the properties.

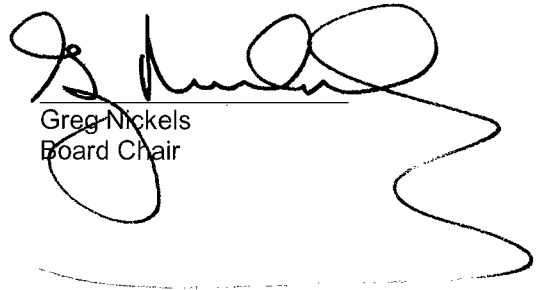
SECTION 4. The Sound Transit Board of Directors finds that the public health, safety, necessity, convenience, and welfare demand and require that the properties described in Exhibit A be acquired, condemned, appropriated, taken and damaged for the construction, operation, and permanent location of the Sounder Commuter Rail ST2 Seattle to Tacoma Track & Signal Project.

SECTION 5. In addition to the authority granted the chief executive officer in Section 1, condemnation proceedings are hereby authorized to acquire all, or any portion thereof, of the properties and property rights and/or rights in those of the properties described in Exhibit A, not owned by a public entity, for the purpose of constructing, owning, and operating a permanent location of the Sounder Commuter Rail ST2 Seattle to Tacoma Track & Signal Project. The chief executive officer is also authorized to make minor amendments to the legal descriptions of the properties described in Exhibit A, as may be necessary to correct scrivener's errors and/or to conform the legal description to the precise boundaries of the property required for the Project.

SECTION 6. The funds necessary to acquire the property by purchase or to pay just compensation adjudged due after condemnation shall be paid from Sound Transit general funds.

SECTION 7. Notwithstanding the sections above, if Sound Transit intends to preserve the ability to use federal funds, then Sound Transit shall not condemn or otherwise acquire property interests until it obtains approval from FTA. In addition, if Sound Transit and BNSF reach a negotiated agreement or settlement for the purchase of the property interests in the Seattle-to-Tacoma corridor, such agreement shall be subject to Board approval and will be accompanied by any necessary environmental review and documentation.

ADOPTED by the Board of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on November 12, 2009.



Greg Nickels
Board Chair

ATTEST:

Marcia Walker
Marcia Walker
Board Administrator

**RESOLUTION NO. R2009-20
EXHIBIT A**

ST2 Seattle to Tacoma Track & Signal Project

Order No.	R/W No.	Owner/Contact	Parcel #	Site Address
1280593	ST2 Seattle to Tacoma	BNSF RAILWAY COMPANY	Various	N/A

**MP 0X to MP 38.35X
Centerline Description**

That portion of BNSF Railway Company's (formerly Northern Pacific Railway Company and Great Northern Railway Company) Main Track No. 1 from Seattle to Tacoma, Washington, as now located and constructed upon, over and across King County and Pierce County, Washington, said Main Track centerline being described as follows:

Beginning at the point of intersection of said Main Track No. 1 centerline, as now located and constructed, with the centerline of vacated King Street in front of King Street Station in the City of Seattle, being situated in Section 5, Township 24 North, Range 4 East, W. M., King County, Washington; thence Southerly, along said Main Track centerline, 544 feet, more or less to a point of curve; thence Southerly, along an 8° curve, concave Westerly, through a central angle of 9°26', a distance of 118.1 feet to point of tangent; thence Southerly, 3,300 feet, more or less to point of curve; thence Southerly, along a curve to the left, concave Easterly to point of tangent; thence 3,600 feet, more or less to point of spiral; thence Southerly, along a spiral to the left, a distance of 60 feet to point of curve; thence Southerly, along a 3°20' curve, concave Easterly, through a central angle of 7°18', a distance of 219.0 feet to point of spiral; thence Southerly, along a spiral to the left, a distance of 60 feet to point of tangent; thence Southerly, 112 feet, more or less to point of spiral; thence Southerly, along a spiral to the right, a distance of 60 feet to point of curve; thence Southerly, along a 3°20' curve, concave Westerly, through a central angle of 7°18', a distance of 219.0 feet to point of spiral; thence Southerly, along a spiral to the right, a distance of 60 feet to point of tangent; thence Southerly 1,040 feet, more or less to the centerline of Spokane Street, at a point distant 610 feet, more or less, Easterly of the centerline of 1st Street, as measured along said centerline of Spokane Street; thence continuing Southerly 2,390 feet, more or less to point of spiral; thence Southerly, along a spiral to the left, a distance of 200 feet to point of curve; thence Southerly and Southeasterly, along a 3°56' curve, concave Northeasterly, through a central angle of 33°09', a distance of 842.80 feet to point of spiral; thence Southeasterly, along a spiral to the left, a distance of 200 feet to point of tangent; thence Southeasterly, 2,566 feet, more or less to point of curve; thence Southeasterly, along a 1° curve, concave Northeasterly, through a central angle of 1°35', a distance of 159.17 feet to point of tangent; thence Southeasterly, 115 feet, more or less to point of curve; thence Southeasterly, along a 3°15' curve, concave Southwesterly, through a central angle of 7°09', a distance of 220.0 feet to point of tangent; thence Southeasterly, 70 feet, more or less, to point of curve; thence Southeasterly, along a 3° curve, concave Southwesterly, through a central angle of 4°57', a distance of 165.0 feet to point of tangent; thence Southeasterly 427 feet, more or less to point of spiral; thence Southeasterly, along a spiral to the left, a distance of 200.0 feet to point of curve; thence Southeasterly, along a 1° curve concave Northeasterly, through a central angle of 3°31', a distance of 351.66 feet to point of spiral; thence Southeasterly, along a spiral to the left, a distance of 200.0 feet to point of tangent; thence Southeasterly 2,155.0 feet, more or less to point of curve; thence Southeasterly, along a 0°30' curve, concave Northeasterly, through a central angle of 2°47', a distance of 556.66 feet to point of tangent; thence Southeasterly 4917 feet, more or less to point of spiral; thence Southeasterly, along a spiral to the right, a distance of 500 feet to point of curve; thence Southeasterly, along a 1°45' curve, concave Southwesterly, through a central angle of 12°30', a distance of 714.29 feet to point of spiral; thence Southeasterly, along a spiral to the right, a distance of 500 feet to point of tangent; thence Southeasterly 4531 feet, more or less to point of curve; thence Southeasterly, along a 0°40' curve, concave Northeasterly, through a central angle of 3°54', a distance of 585.0 feet to point of tangent; thence Southeasterly, 705 feet, more or less to the South line of Section 34, Township 24 North, Range 4 East, M.D.M., at a point distant 400 feet, more or less,

Easterly of the Southwest corner of said Section 34; thence continuing Southeasterly 2,725 feet, more or less to point of spiral; thence Southeasterly, along a spiral to the left, a distance of 250 feet to point of curve; thence Southeasterly, along a 1° curve, concave Northeasterly, through a central angle of 10°07', a distance of 1,011.66 feet to point of spiral; thence Southeasterly, along a spiral to the left, a distance of 250 feet to point of tangent; thence Southeasterly 1,161 feet, more or less to point of curve; thence Southeasterly, along a 0°20' curve, concave Northeasterly, through a central angle of 5°50', a distance of 1,750.0 feet to point of tangent; thence Southeasterly 2,265 feet, more or less to point of spiral; thence Southeasterly, along a spiral to the right, a distance of 300 feet to point of curve; thence Southeasterly, along a 1°31' curve, concave Southwesterly, through a central angle of 11°17', a distance of 743.96 feet to point of spiral; thence Southeasterly, along a spiral to the right, a distance of 300 feet to point of tangent; thence Southeasterly, 908 feet, more or less to point of spiral; thence Southeasterly, along a spiral to the left, a distance of 300 feet to point of curve; thence Southeasterly, along a 1°38' curve, concave Northeasterly, through a central angle of 22°31', a distance of 1,378.57 feet to point of spiral thence Southeasterly, along a spiral to the left, a distance of 300 feet to point of tangent; thence Southeasterly 119 feet, more or less to point of spiral; thence Southeasterly, along a spiral to the right, a distance of 400 feet to point of curve; thence Southeasterly, along a 3°10' curve, concave Southwesterly, through a central angle of 11°41', a distance of 368.95 feet to point of spiral; Southeasterly, along a spiral to the right, a distance of 400 feet to point of tangent; thence Southeasterly, 1,491 feet to point of spiral; thence Southeasterly, along a spiral to the left, a distance of 250 feet to point of curve; thence Southeasterly, along a 1°03' curve, concave Northeasterly, through a central angle of 4°51', a distance of 461.90 feet to point of spiral; thence Southeasterly, along a spiral to the left, a distance of 250 feet to point of tangent; thence Southeasterly 1090 feet, more or less, to the South line of Section 14, Township 23 North, Range 3 East, M.D.M., at a point distant 240 feet, more or less, Westerly of the Southeast corner of said Section 14; thence continuing Southeasterly 3,364 feet, more or less to point of spiral; thence Southeasterly, along a spiral to the right, a distance of 420 feet to point of curve; thence Southeasterly and Southerly, along a 3°04' curve, concave Southwesterly and Westerly, through a central angle of 23°16', a distance of 758.70 feet to point of spiral; thence Southerly, along a spiral to the right, a distance of 420 feet to point of tangent; thence Southerly, 8,208 feet, more or less to point of spiral; thence Southerly, along a spiral to the left, a distance of 250 feet to point of curve; thence Southerly, along a 1° curve, concave Westerly, through a central angle of 5°39', a distance of 565.0 feet to point of spiral; thence Southerly, along a spiral to the left, a distance of 250 feet to point of tangent; thence Southerly 14,548 feet, more or less to point of curve; thence Southerly, along a 0°30' curve, concave Westerly, through a central angle of 6°44', a distance of 1346.6 feet to point of tangent; thence Southerly 2,555 feet, more or less to the South line of Section 13, Township 22 North, Range 4 East, M.D.M., at a point distant 1230 feet, more or less, Westerly of the Southeast corner of said Section 13; thence continuing Southerly 2,162 feet, more or less to point of curve; thence Southerly, along a 1° curve, concave Easterly, through a central angle of 4°, a distance of 400 feet to point of tangent; thence Southerly 14.0 feet to point of curve; thence Southerly, along a 1° curve, concave Westerly, through a central angle of 4°, a distance of 400 feet to point of tangent; thence Southerly 26,476 feet, more or less to point of curve; thence Southerly, along a 0°30' curve, concave Easterly, through a central angle of 1°51', a distance of 373 feet to point of tangent; thence Southerly 17,299 feet, more or less, to the South line of Section 36, Township 21 North, Range 4 East, M.D.M., at a point distant 122 feet, more or less, Westerly of the Southeast corner of said Section 36, said South line of Section 36 being the common line between King County and Pierce County; thence continuing Southerly 13,715 feet, more or less, to point of spiral; thence Southerly, along a spiral to the right, a distance of 410 feet to point of curve; thence Southerly and Southwesterly, along a 2°01' curve, concave Westerly and Northwesterly, through a central angle of 31°54', a distance of 1,581.81 feet to point of spiral; thence Southwesterly, along a spiral to the right, a distance of 410 feet to point of tangent; thence Southwesterly 6,782 feet, more or less to the South line of Section 24, Township 20 North, Range 4 East, M.D.M., at a point distant 122 feet, more or less, Westerly of the Southeast corner of said Section 36 at a point 930 feet, more or less Easterly of the Southwest corner of last said Section 36; thence continuing Southwesterly 3,711 feet, more or less to point of spiral; thence Southwesterly, along a spiral to the right, a distance of 411 feet to point of curve; thence Southwesterly and Westerly, along a 2°02' curve, concave Northwesterly and Northerly, through a central angle of 58°16', a distance of 2,865.57 feet to point of spiral; thence Westerly, along a spiral to the right, a distance of 411 feet to point of tangent; thence Westerly 19,902 feet, more or less, to point of spiral; thence Westerly, along a spiral to the right, a distance of 400 feet to point of curve; thence Westerly and Northwesterly, along a 4°30' curve, concave Northerly and Northeasterly, through a central angle of 15°04', a distance of 334.81 feet to point of spiral; thence Westerly, along a spiral to the right, a distance of 400 feet to point of tangent; thence Northwesterly 6,298 feet, more or less, to point of spiral; thence Northwesterly, along

a spiral to the left, a distance of 490 feet to point of curve; thence Northwesterly, along a $2^{\circ}30'$ curve, concave Southwesterly, through a central angle of $1^{\circ}22'$, a distance of 54.67 feet to point of spiral; thence Northwesterly, along a spiral to the left, a distance of 490 feet to point of tangent; thence Northwesterly 2,144 feet, more or less to the West line of Section 13, Township 20 North, Range 3 East, M.D.M. at a point 176 feet, more or less North of the West quarter corner of said Section 13; thence 431 feet, more or less, to point of spiral; thence Northwesterly, along a spiral to the right, a distance of 390 feet to point of curve; thence Northwesterly and Northerly, along a $4^{\circ}12'$ curve, concave Northeasterly and Easterly, through a central angle of $24^{\circ}03'$, a distance of 572.62 feet to point of spiral; thence Northerly, along a spiral to the right, a distance of 390 feet to point of tangent; thence Northerly 936 feet, more or less to point of spiral; thence Northerly, along a spiral to the left, a distance of 320 feet to point of curve; thence Northwesterly and Westerly, along a $5^{\circ}04'$ curve, concave Southwesterly and Southerly, through a central angle of $43^{\circ}52'$, a distance of 865.79 feet to point of spiral; thence Westerly, along a spiral to the left, a distance of 320 feet to point of tangent; thence Westerly 626 feet, more or less, to point of spiral; thence Westerly, along a spiral to the right, a distance of 390 feet to point of curve; thence Westerly, Northwesterly and Northerly, along a $4^{\circ}02'$ curve, concave Northerly, Northeasterly and Easterly, through a central angle of $49^{\circ}46'$, a distance of 1233.88 feet to point of spiral; thence Northerly, along a spiral to the right, a distance of 390 feet to point of tangent; thence Northerly 1,105 feet, more or less, to point of spiral; thence Northerly, along a spiral to the left, a distance of 320 feet to point of curve; thence Northerly and Northwesterly, along a $6^{\circ}09'$ curve, concave Southwesterly and Southerly, through a central angle of $43^{\circ}58'$, a distance of 714.91 feet to point of spiral; thence Northwesterly, along a spiral to the left, a distance of 320 feet to point of tangent; thence Northwesterly 629 feet, more or less, to point of spiral; thence Northwesterly, along a spiral to the right, a distance of 100 feet to point of curve; thence Northwesterly, along a $2^{\circ}01'$ curve, concave Northeasterly, through a central angle of $6^{\circ}31'21''$, a distance of 323.5 feet to Milepost 38.35X, and there terminating.