An aerial photograph of a multi-lane highway with several cars driving. The image is semi-transparent, allowing the text to be clearly visible. The text is centered and reads:

**OAC and other Sign Issues
Involving the Illinois State Toll
Highway Authority (ISTHA)**

2008 Illinois Process Review on the Integrity of the Interstate R/W

- Identified threats to the present and future Interstate R/W
- Threats related to the safe and efficient operations of the Interstate R/W
- Threats included sign clutter and major increases in LED/CEVMS (both on and off premise signs)

ROW Integrity—Working Definition

- All real property, including air space, within the Interstate R/W boundaries shall be devoted exclusively to public highway purposes and free of all public and private installations, facilities, or encroachments, except those approved by IDOT and/or FHWA.
- References: 23 CFR 1.23(b) and 23 CFR 710.405(a)

Sign Clutter



LED full motion video signs



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Melts™

I said, "I don't understand."
Not "Talk slower."

TALK TO
CHUCK

charles SCHWAB

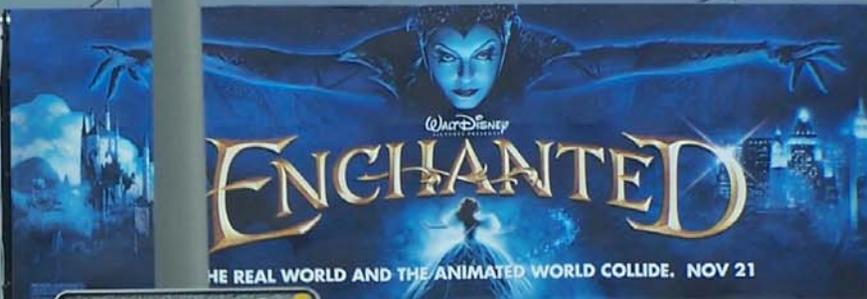
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Allstate
arena

NEW! NEW! NEW!
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GOBS OF JOBS!!!

Daily Herald





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90

DES PLAINES OASIS
Mobil
McDonald's
↑





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2
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LANES

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Sign issues within and outside of the Tollway Interstate right-of-way:

- Commercial advertising within the R/W? (But, what's the R/W?)
- Does the R/W include the Tollway oases?
- Does the 1965 HBA apply to the Interstate Tollway where there have been no federal funds in the construction or R/W?

Tollway sign issues cont.

- When does indoor advertising become outdoor advertising under the 1965 HBA?
- Sign clutter and signs within the R/W not in conformance with the MUTCD

Background on ISHTA and IDOT's relationship with ISHTA

- ISHTA established in 1953 as an instrumentality and administrative agency of the State
- First toll highway opened in 1958
- ISHTA is independent of IDOT except for control of outdoor advertising

Background cont.

- ISHTA has authority to collect and raise tolls and for maintenance, operations and construction of tollway roads.
- IDOT has responsibility for controlling outdoor advertising along Interstates including tollway Interstates.

Interstate Highways in Illinois

- Illinois ranks third among the states in total mileage with 2169 miles.
- IDOT controls and maintains Interstate freeways
- ISHTA controls and maintains 286 miles of Tollway Interstate
- Tollway Interstate includes the Tri-state (I-294), Ronald Reagan (I-88), Vets Memorial (I-355), and the Northwest Tollway (I-90).

First issue: Does 65 HBA apply to Tollway Interstates?

- Yes. Regardless of funding of the R/W and/or construction.
- 23 U.S.C 131 Control of Outdoor Advertising requires control in areas “adjacent” to the Interstate System and the primary system to protect the public investment in such highways, to promote safety, and to preserve natural beauty.
- The law does not address funding of the Interstate as a condition of OAC. The law addresses the system of highways subject to effective outdoor advertising control.

Illinois is also one of 23 “bonus” states

- OAC adjacent to Interstate Tollways must conform to both 1965 HBA and 1958 Bonus Act
- Commercial areas must meet the Bonus Act September 21, 1959 tests to qualify for C&I area sign permits
- None of the Tollways built with federal aid
- No bonus payments claimed or paid on Tollway
- So, if ISHTA complies with the 1965 Act but violates the Bonus Act and Bonus Agreements, what is the penalty?

Illinois Interstates subject to both 1965 HBA and 1958 Bonus Act

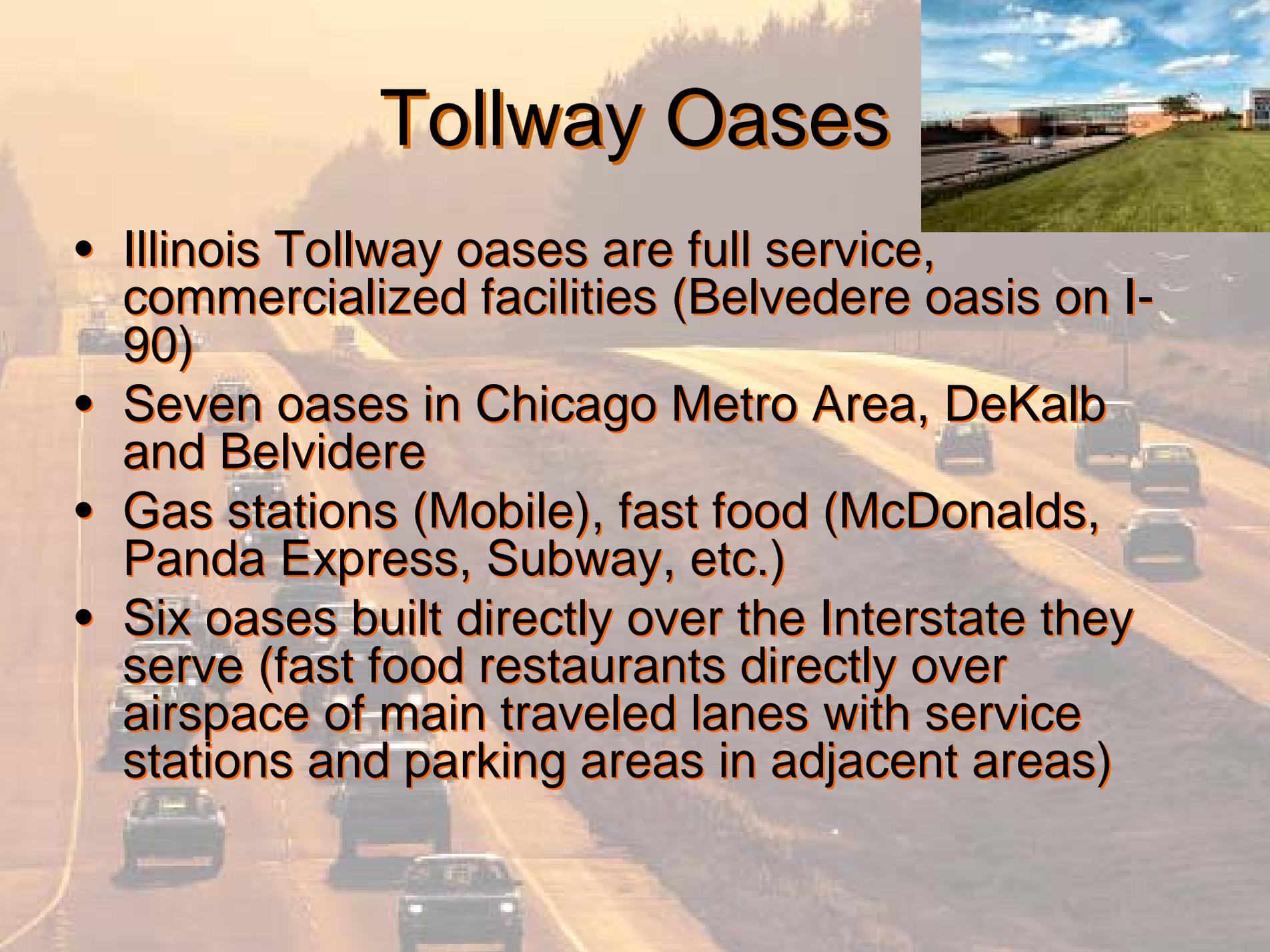
- Commercial signs “along” or outside of the R/W must comply with both Acts.
- Commercial signs may be permitted along the R/W if they meet size, spacing and lighting requirement within federal/state agreements. But
- Commercial signs may not be permitted within the Interstate R/W (FHWA legal opinion dated December 19, 1996.)
- Signs within Interstate R/W are governed by 23 U.S.C. 109(d).
- Now, the next issue: ISHTA’s legal definition of their Interstate Tollway Right-of-Way

ISHTA Tollway oases excluded from definition of operational R/W

- Section 2520.130 Administrative Code, Title 92 Transportation, Chapter IV State Toll Highway Rules
- Section 2520.130 “right-of-way” is defined as the entire area of the Tollway within the fence lines/barrier walls but not including the Tollway oases and their parking lots.
- The question or issue is can FHWA accept this legal definition of R/W for purposes of outdoor advertising control under the 1965 and 1958 Acts?
- This question is critical because the ISHTA has submitted preliminary plans and preliminary permit applications to IDOT for CEVMS monopole billboards within their Tollway oases.

Tollway Oases

- Illinois Tollway oases are full service, commercialized facilities (Belvedere oasis on I-90)
- Seven oases in Chicago Metro Area, DeKalb and Belvidere
- Gas stations (Mobile), fast food (McDonalds, Panda Express, Subway, etc.)
- Six oases built directly over the Interstate they serve (fast food restaurants directly over airspace of main traveled lanes with service stations and parking areas in adjacent areas)



Tollway Oases –Background History

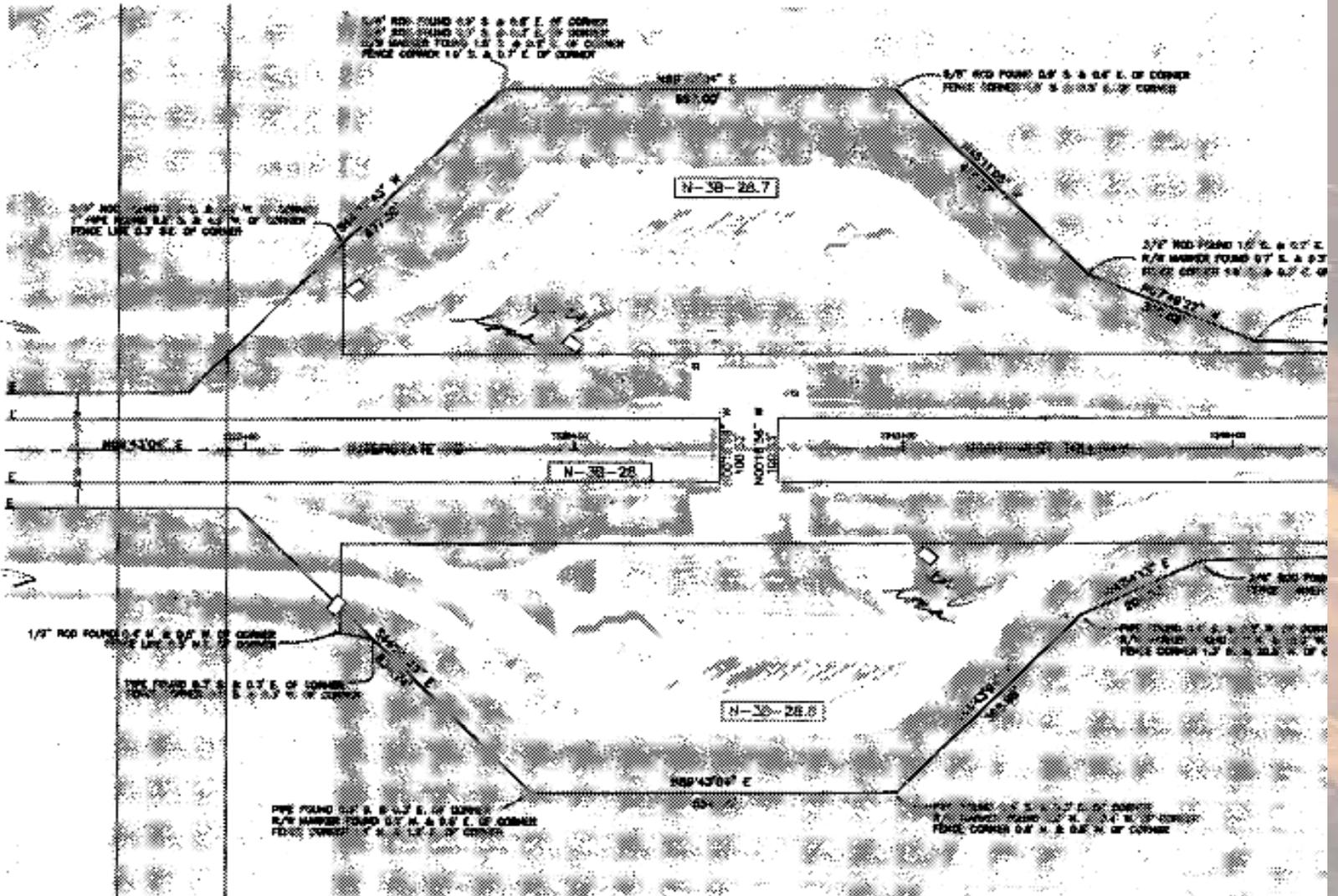
- Five oases built in 1959 by Standard Oil (Amoco) on land leased from ISHTA
- First restaurants were Howard Johnsons
- Oases extensively remodeled in 1984 when fast food chains took over from HoJos and Mobile took over from Amoco
- In 2003 the Tollway launched a PPP Oases redevelopment project with Wilton Partners of Los Angeles, CA.

Tollway Oases Redevelopment with Wilton Partners

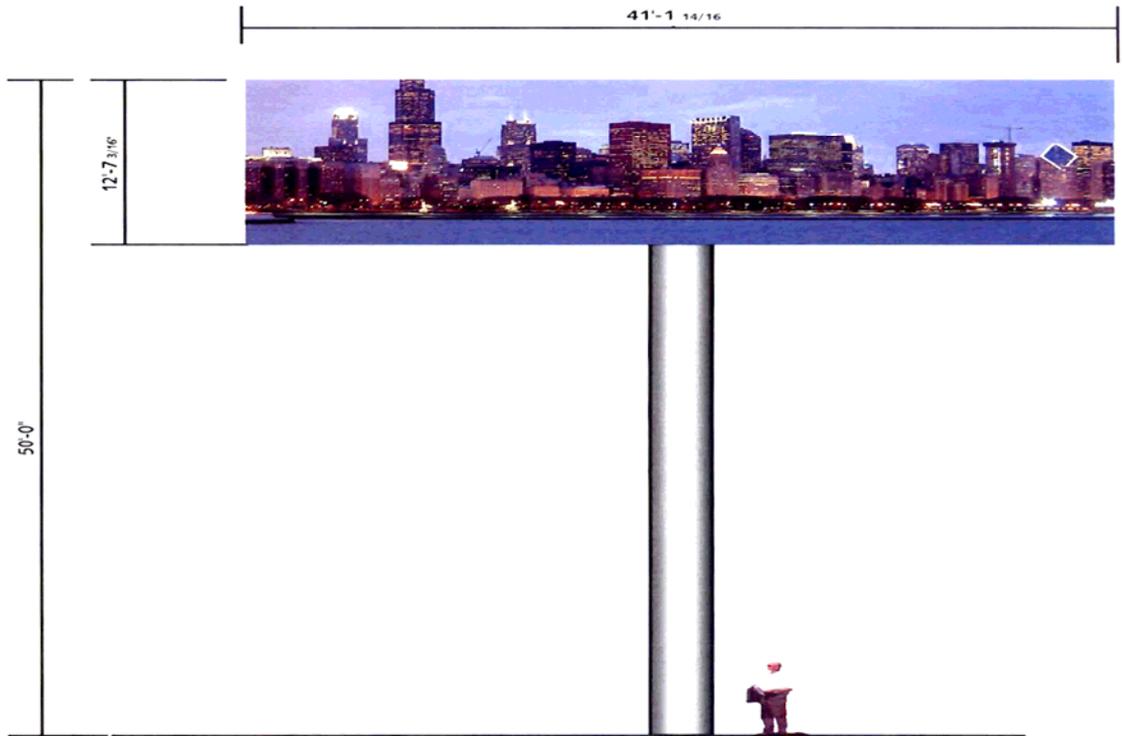
- \$95M reconstruction of all 7 oases paid by Wilton
- Wilton 25 year lease with ISTHA
- Wilton pays all oases operating costs/expenses
- Wilton subleases with McDs and Mobile
- Tollway will share in retail and gas sales revenues and possibly other non toll revenues, e.g. oases CEVMS (subject to permits from IDOT)
- Each oasis features Mobile stations and fast food restaurants.

Wilton's interest in CEVMS within oases

- If McDs and Mobile why not CEVMS?
- Approached ISTHA and IDOT with “draft permit” applications
- Meetings with ISTHA, IDOT, Wilton and FHWA
- Could IDOT issue commercial outdoor advertising sign permits within Tollway's oases?
- Belvedere oases first test case



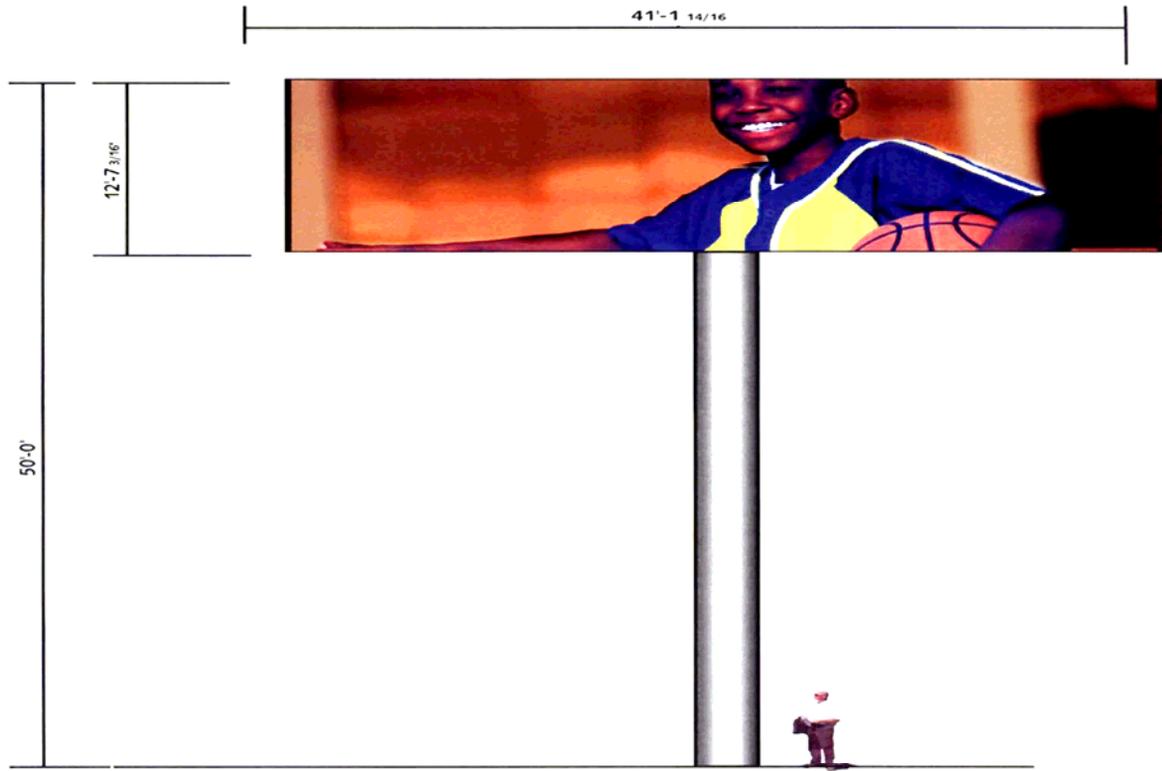
Site Plan Belvidere Location



A Elevation 3/32" = 1'-0"
 Manufacture and install one (1) double face electronic display.

Belvidere Oasis





Display

Color:
 Character Si
 Pixel Matrix
 Resolution:
 Display Area
 Maintenance

G Elevation 3/32" = 1'-0"
 Manufacture and install one (1) double face electronic display.

Belvidere Oasis

Sout



Issues to address for oases CEVMS permits

- Can signs be allowed in the oases?
- If oases are not within the R/W, are the signs in “commercial” areas, i.e., meet the Bonus Agreement September 21, 1959 tests?
- Will the signs meet size, spacing and lighting criteria?
- What about the signs inside the Oases fast food restaurants? On-premise or off-premise?
- Are signs inside of buildings subject to “outdoor” advertising control?

Can CEVMS be allowed in oases areas?

- Tollway legal definition of their R/W under Section 2520.130 of Title 92 Transportation excludes Tollway oases
- FHWA's Office of Chief Counsel determined that this would not violate 23 U.S.C. 131 or the 1972 State/Federal agreement for control of outdoor advertising adjacent to the Interstate highway
- IDOT was advised accordingly by letter of December 13, 2007

1958 Bonus Act and 1965 Act commercial area requirements?

- Belvidere oasis site was an unzoned commercially developed site as early as September of 1957.
- Standard Oil Co. lease with ISHTA back to that same date.
- Belvidere oasis commercially developed with service stations and restaurants as of that date and continuously used commercially since September 1957.
- Thus, it meets Bonus Act September 21, 1959 requirements that are more strict/restrictive than the 1965 Act's commercial area requirements.

Can the proposed CEVMS meet size, spacing and lighting rules?

- Effective Oct. 2006 Illinois allows “multiple message signs”, e.g., fixed message of at least 10 sec. with a transition time of 3 sec. or less (regardless of technology.)
- Accordingly, LED CEVMS type signs allowable as long as the 10 second/ 3 second parameters are met.
- Size proposals acceptable—face of sign proposal approx. 540 sq. ft.
- HAGL approx. 50 feet, but State/Federal agreements do not address HAGL
- But, what about spacing? Will the proposed signs meet spacing requirement?
- What about these signs?

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Signs inside oases restaurants

- Not on-premise—do not advertise principal products or services at oasis per 23 CFR 750.709 on-property or on-premise advertising
- They are off-premise commercial signs.
- But, they're indoors.
- What's the purpose of these signs?
- If they're indoor commercial advertising signs, are they subject to control?
- Background on indoor advertising in Illinois.

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Indoor outdoor advertising in Dixon, Illinois

- Tri-vision sign inside retail store immediately adjacent to state Route 2 (on FAP system June 21, 1991)
- Advertises off-premise products/activities
- IDOT issued a 30-day illegal notice in March of 2004 because sign owner did not apply for a permit and the sign was a tri-vision (illegal in 2004.)
- Owner of sign appealed and claimed that sign was not “outdoor advertising” under Illinois law
- IDOT Chief Counsel’s office turned matter over to the State Attorney General. No opinion to date. Not tested in courts to date.
- IDOT requested FHWA legal opinion on applicability of 1965 Beautification Act

Indoor outdoor advertising in Illinois cont.

- FHWA Chief Counsel's office memorandum of March 25, 2005
- Does "outdoor" in the law and regulations modify all of the terms succeeding it (outdoor advertising sign, outdoor display, etc.) or does it describe a business, outdoor advertising, that can use various formats to reach an audience? The FHWA memorandum suggested the latter.
- To date we have this informal, legal opinion that under federal and state outdoor advertising control laws, the 1965 Act and the Illinois 1971 Act both apply to indoor signs if the intent of the sign is to be read from the controlled route/highway.

Back to the Tollway oasis CEVMS sign proposal

- Will not meet spacing (500 feet) requirements along Interstate if indoor oases signs are subject to control
- Will meet spacing requirements if indoor signs are not subject to control
- Regardless, status of the indoor oases signs must be addressed. What is their current legal status? And this must be addressed before any permits can be issued by IDOT for any oases CEVMS signs in proposed oases locations.
- To date, ISHTA has not formally applied to IDOT for CEVMS sign permits.

What's your opinion?

- Are CEVMS excessively distracting and threats to highway safety? Should they be allowed at Tollway Interstate oases areas?

