

BEFORE THE OFFICE OF THE COMMISSIONER OF RAILROADS

STATE OF WISCONSIN

Petition of the City of Superior for the Repair of the Public Crossing of the BNSF Railway Company, Union Pacific Railroad Co. and the Soo Line Tracks with Catlin Avenue in the City of Superior, Douglas County

9005-RX-94

FINAL DECISION

By letter dated January 18, 2007, the City of Superior filed a complaint with the Office of the Commissioner of Railroads (OCR) under §86.12, Stats., that the Union Pacific Railroad Co. (UP – crossing no. 186 166U) and Soo Line Railroad Co. (Soo Line – crossing no. 691 657J) have failed to maintain in good condition for public travel the public crossing of their tracks with Catlin Avenue in the City of Superior, Douglas County.

The City also complained that the BNSF Railway Company (BNSF) has failed to maintain in good condition for public travel the public crossing of its tracks with Catlin Avenue in the City of Superior, Douglas County (BNSF – crossing no. unknown). Subsequent to the filing of the complaint with the OCR, the BNSF notified the city that the BNSF intends to renew the crossing in 2007.

The resolution requiring the repairs was adopted on November 21, 2006 and sent to the railroads on November 22, 2006. The City states that the railroads have not repaired the crossing.

Pursuant to due notice, public hearing was held in this matter on February 22, 2007 in Superior, Wisconsin with hearing examiner Douglas S. Wood presiding.

On April 3, 2007, the hearing examiner issued a proposed decision. The Office of the Commissioner of Railroads received no comments on the proposed decision. The Commissioner adopts the proposed decision as final without change.

Appearances:

Parties

City of Superior, Petitioner
by
Frog Prell, City Attorney
1316 N. 14th Street
Suite 301
Superior WI 54880

As Interest May Appear:

Burlington Northern Santa Fe Railroad Co.
by
Craig N. Rasmussen
Manager Public Projects
80- 44th Avenue
Minneapolis, MN 55421

Soo Line Railroad Co.
by
Kurt Rohde
Track Maintenance Supervisor
501 Marquette Avenue
Minneapolis, MN 55402

No Appearance by Union Pacific Railroad Co.

Of the Office Staff:

Thomas Running, Railroad Investigator

Findings of Fact

THE COMMISSIONER FINDS:

Catlin Avenue is about 28' wide with gravel shoulders. Going north, the roadway ascends at a grade of about 1%. Catlin Avenue crosses three tracks. From north to south the tracks are owned and operated by the BNSF, the UP, and the Soo Line. The UP track is about 15' south of the BNSF track and the Soo Line track is another 60' to the south. The angle of intersection varies slightly for each track, but is generally between 75° and 80°.

Catlin Avenue carries 3629 ADT (average daily traffic). The speed limit on Catlin Avenue is 25 mph.

Taken as a whole, the ride over the tracks on this stretch of the roadway is very rough. The BNSF and the UP have already planned to renew their respective crossings in 2007. The Soo Line has not.

The rough ride is partially caused by the condition of each crossing, for example by the depression of the running rails relative to the crossing surface. The driver experiences a roller-coaster effect as they traverse the tracks. **It is important that the railroads rebuild the crossings in the same vertical plane to the extent feasible.**

However, part of the rough ride is caused by the track superelevation required by the track curvature. Superelevation is “the vertical distance between the heights of inner and outer edges of highway pavement or railroad rails” (*Merriam-Webster's Online Dictionary*). More specifically the superelevation for the UP and Soo Line tracks is opposite from the BNSF superelevation because those tracks curve in opposite directions. As a consequence, even after the crossings are rebuilt, the ride will not be ideal.

The Soo Line crossing was last rebuilt in 1997 when new rail, ties, ballast and crossing timbers and asphalt were installed. While the Soo Line crossing is not in as bad condition as the other two crossings, it does require significant repair. The order requires the Soo Line to renew the flange and guard timbers and asphalt at a minimum.

It is critical that the railroads coordinate their construction work. In particular, the UP and BNSF need to coordinate their respective track elevations. Rebuilding the crossings at different elevations will still provide a bad ride for highway users and will not fulfill the statutory mandate to maintain the crossing “in good condition and repair for highway travel”.

Ultimate Conclusions on the Issues

THE COMMISSIONER CONCLUDES:

That the BNSF Railway Company, Union Pacific Railroad Co., and Soo Line Railroad Co. have failed to maintain the crossing at-grade of Catlin Avenue with its tracks in good condition and repair for public travel in the City of Superior, Douglas County.

Conclusion of Law

THE COMMISSIONER CONCLUDES:

That the jurisdiction of the Office of the Commissioner of Railroads under §86.12, Wis. Stats., extends to this matter. Accordingly, the Office enters an order consistent with the findings of fact.

Order

THE COMMISSIONER ORDERS:

1. That the **BNSF Railway Company** shall repair the crossing at-grade of **Catlin Avenue** with its tracks by fully renewing the crossing with a concrete-panel surface in the City of Superior, Douglas County by **June 30, 2007**.

2. That the **Union Pacific Railroad Co.** shall repair the crossing at-grade of **Catlin Avenue** with its tracks by fully renewing the crossing with a concrete-panel surface in the City of Superior, Douglas County by **June 30, 2007**.

3. That the **Soo Line Railroad Co.** shall repair the crossing at-grade of **Catlin Avenue** with its tracks by renewing the flange and guard timbers and asphalt between the rails and on the approaches, at a minimum, in the City of Superior, Douglas County by **June 30, 2007**.

4. That jurisdiction is retained.

Dated at Madison, Wisconsin, (April 19, 2007).

By the Office of the Commissioner of Railroads.

Rodney W. Kreunen
Commissioner of Railroads

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