

BEFORE THE OFFICE OF THE COMMISSIONER OF RAILROADS

STATE OF WISCONSIN

Application of Cutler Magner Company for an  
Exemption from the Railroad Track Clearance  
Law of Structures in the City of Superior, Douglas County

9020-RV-159

NOTICE OF INVESTIGATION, FINDINGS OF FACT AND ORDER

On June 15, 2007, Cutler Magner Company (Cutler Magner) filed an application with the Office of the Commissioner of Railroads (Office) under section 192.53, Wis. Stats., and sections RR 2.15 and RR 2.16, Wis. Adm. Code, for an exemption from the railroad track clearance laws of structures located at the car spotting facility in the City of Superior, Douglas County. Cutler Magner is expanding its production capacity through the addition of a lime production kiln. This project will require the direct overhead loading of the hopper cars. A stipulation regarding the clearances signed by the petitioner and the Burlington Northern Santa Fe Railway (BNSF) has been filed with the Office. No hearing was held.

Findings of Fact

THE COMMISSIONER FINDS:

Cutler Magner proposes the construction of an overhead loadout pocket to allow the direct loading of the lime product to covered hopper rail cars. As part of the environmental air quality permits for the facility, it is necessary to minimize the potential for dust emissions during the loadout process. Minimizing the size of the entrance to the loadout pocket will reduce the volume of air that can move through the loadout pocket. This structure will provide 18 feet 0 inches vertical clearance above top of rail. BNSF will spot cars outside the facility, and Cutler Magner will shuttle cars into the facility. Cutler Magner will install signs with the message "No Locomotives Beyond This Point" at the perimeter of the facility, and "No Clearance" signs at the entrance to the area of close clearance.

Wisconsin law requires a minimum of 23 feet vertical clearance. The petitioner seeks exemption from this requirement.

Construction of lime loadout structure will not imperil life and limb, and the public interest permits such construction, subject to the conditions set forth in the following order.

Conclusion of Law

THE COMMISSIONER CONCLUDES:

That the Office has jurisdiction under section 192.53, Wis. Stats., and sections RR 2.15 and 2.16, Wis. Adm. Code, to grant the requested exemption, and such an appropriate order should be entered in accordance with the above Findings of Fact.

Order

THE COMMISSIONER THEREFORE ORDERS:

1. That an exemption from the railroad clearance and telltale requirements of section 192.53, Wis Stats., and sections RR 2.15 and RR 2.16, Wis Adm. Code, is hereby granted with respect to the loadout facility, subject to the condition that Cutler Magner install and maintain a "No Clearance" sign in advance of the area of restricted clearance.
2. That the clearances authorized, subject to the aforementioned condition, is a minimum vertical clearance of 18 feet 0 inches above top of rail to the overhead loadout pocket.
3. That jurisdiction is retained.

Dated at Madison, Wisconsin, (June 28, 2007)

By the Office of the Commissioner of Railroads

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Rodney W. Kreunen, Commissioner

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