

BEFORE THE OFFICE OF THE COMMISSIONER OF RAILROADS

STATE OF WISCONSIN

Petition of the Wisconsin Department of Transportation for the Improvement and Alteration of Three Public Crossings of the Union Pacific Railroad Co. Tracks with STH 140 (Church Street) in the Village of Clinton, Rock County

9040-RX-1239

FINAL DECISION

By letter dated February 13, 2007, the Wisconsin Department of Transportation (DOT) filed a petition with the Office of the Commissioner of Railroads (OCR) under §§195.28 and 195.29, Stats., for the alteration and improvement of three public crossings of the Union Pacific Railroad Co. (UP) tracks with STH 140 (Church Street) in the Village of Clinton, Rock County (crossing nos. 388 211V, 924 196A, and 177 968V).

Pursuant to due notice, public hearing was held in this matter on March 29, 2007 in Clinton, Wisconsin with hearing examiner Douglas S. Wood presiding.

On May 31, 2007, the hearing examiner issued a proposed decision. On June 1, 2007, the DOT filed comments generally supporting the proposed decision.

Based on its most current schedule, DOT requests that the crossing construction completion date be changed to June 15, 2008 and the signal installation completion date be changed to August 15, 2008. The Commissioner agrees.

The Commissioner also slightly amends the apportionment of costs for the crossing work. Pursuant to 86.13 (5) DOT has agreed to pay 85% of the cost to rebuild the existing width and 100% of the cost for the 4' additional feet need at the north crossing. Taken together the two existing crossings are 72' wide and the new crossings will be 76' wide (36' and 40'). Applying the appropriate percentages yields a cost share of 14% for the UP and 86% for the project.

DOT also states that the signals at the north crossing may need to be moved to accommodate the 4' widening. DOT suggests that the OCR either allow the UP to remove the existing signals and utilize crossbucks and stop signs as an interim measure until the new signals are installed prior to taking down the detour and reopening the highway to unrestricted traffic or change the completion date for the new signals at the north crossing to June 27, 2008 to coincide with the anticipated start of paving.

The Commissioner amends the order to allow the UP to install crossbucks and stop signs as interim measure **if** the existing warning devices need to be moved to accommodate the crossing construction. The Commissioner notes that the north crossing will have passive warning devices only during the detour when only local traffic will be allowed to use the crossing.

Appearances:

Parties

Wisconsin Department of Transportation, Petitioner
by
Mark Morrison, PE
Grade Crossing Safety Engineer
PO Box 7914
Madison, WI 53707-7914

As Interest May Appear:

Union Pacific Railroad Co.
by
Aaron R. Berndt, Attorney
Borgelt, Powell, Peterson & Frauen S.C.
735 N. Water Street, Suite 1500
Milwaukee, WI 53202

Findings of Fact

THE COMMISSIONER FINDS:

The DOT and the Village of Clinton proposes to reconstruct STH 140 (Church Street) during the 2008 construction season. The project will cross three tracks of the Union Pacific Railroad Co.

STH 140 (Church Street) is 36' wide including two 12'-wide lanes and 6'-paved shoulders. The proposed roadway will be 36' wide face-to-face of curb.

STH 140 (Church Street) intersects three tracks. From north-to-south these tracks are the Harvard Subdivision, an industrial spur, and the State Line Subdivision. STH 140 (Church Street) intersects Harvard Subdivision track at an angle of 63°, the industrial spur at an angle of 82°, and the State Line Subdivision track at an angle of 65°. It is 745' from the Harvard Subdivision track to the industrial spur track (measured along the roadway centerline) and 90' to 135' from the spur track crossing to the State Line Subdivision crossing.

The railroad currently operates 6 through train movements per day over the Harvard Subdivision crossing location at a speed of 50 mph and 10 movements per week over the State Line Subdivision at 10 mph. The spur track is used infrequently at speeds of 10 mph or less.

STH 140 (Church Street) carried 5400 ADT (average daily traffic) in 2003. The DOT projects STH 140 (Church Street) will carry 7800 ADT in the design year of 2023. Trucks constitute 16.6% of all traffic, including frequent oversize loads. The speed limit is 30 mph.

The State Line and Harvard Subdivision crossings need to be rebuilt. The concrete panels in the

Harvard Subdivision crossing rock back and forth and the crossing is also too narrow for the existing roadway. The crossing also needs to be widened 2' to accommodate the right-turn lane for the intersection of STH 140 and Front Street just north of the crossing. The State Line Subdivision crossing has settled and therefore needs to be rebuilt. The spur track crossing is an adequate condition.

Pursuant to s. 86.13 (5), DOT has offered to pay 85% of the crossing construction costs.

One train-vehicle accident has occurred at the State Line Subdivision crossing since 1973. The crash occurred in 1992. Six train-vehicle accidents have occurred at the Harvard Subdivision crossing since 1973.

The Harvard Subdivision crossing has rotatable cantilevered signals with 12" LED automatic flashing lights with gates and constant warning time circuitry for warning devices. These warning devices are not adequate. The existing warning devices will be adequate until such time as the new warning devices are installed. In order to adequately protect public safety, mast-mounted 12" LED automatic flashing lights with gates and constant warning time circuitry are needed. Cantilevered signals are not needed for the roadway width or number of lanes.

The State Line crossing has rotatable cantilevered signals with 12" incandescent automatic flashing lights with motion sensor circuitry for warning devices. These warning devices are not adequate. The existing warning devices will be adequate until such time as the new warning devices are installed. In order to adequately protect public safety, 12" LED automatic flashing lights with gates and constant warning time circuitry are needed. One cantilevered signal is needed in the southeast quadrant for northbound traffic due to the hill located south of the crossing.

The industrial spur track crossing has crossbucks and yield signs for warning devices. These warning devices are adequate.

Constant warning time circuitry adjusts for train speed and causes the crossing signals to always operate for the same amount of time before the train reaches the crossing, regardless of train speed. A motion detector simply detects the train operation, but does not adjust for train speed so that the amount of warning time varies based on train speed.

Light emitting diodes (LED) lamps replace incandescent bulbs. LEDs have higher conspicuity, a wider cone of vision, and longer life than incandescent lights. LEDs are especially useful on east-west roadways where the rising and setting sun may make the signals difficult to see.

In summary, the improvement of the crossings at-grade of the Union Pacific Railroad Co. tracks with STH 140 (Church Street) will promote public safety and convenience.

Source of funding: The signal materials and installation shall be paid from public highway project funds. The crossing construction costs shall be paid 85% from the public highway project funds and 15% from the Union Pacific Railroad Co.

THE COMMISSIONER CONCLUDES:

1. That the improvement of the crossings at-grade of STH 140 (Church Street) with the Union Pacific Railroad Co. tracks in accordance with the design plans of the Wisconsin Department of Transportation in the Village of Clinton, Rock County will promote public safety and convenience.
2. That in order to adequately protect and promote public safety, it is necessary to install and maintain mast-mounted 12" LED automatic flashing lights with gates at the Harvard Subdivision track crossing. Crossbucks and stop signs will be adequate as an interim measure during construction.
3. That in order to adequately protect and promote public safety, it is necessary to install and maintain one cantilevered and one mast-mounted 12" LED automatic flashing light signal with gates at the State Line Subdivision track crossing.
4. That in order to adequately protect and promote public safety, it is necessary to install and maintain reflective crossbucks and yield signs at the spur track crossing.
5. That it is reasonable that the Union Pacific Railroad Co. bear 14% of the cost for the crossing construction.

Conclusion of Law

THE COMMISSIONER CONCLUDES:

That the jurisdiction of the Office of the Commissioner of Railroads under §§86.13, 195.28 and 195.29, Stats., extends to this matter. Accordingly, the Office enters an order consistent with the findings of fact.

Order

THE COMMISSIONER ORDERS:

1. That the **Union Pacific Railroad Co.** shall install and maintain a concrete-paneled crossing at-grade of **STH 140 (Church Street)** with its **State Line Subdivision** tracks in accordance with the design plans of the Wisconsin Department of Transportation in the Village of Clinton, Rock County by **June 15, 2008** (crossing no. 388 211V). The timing of construction shall be coordinated with the Wisconsin Department of Transportation.
2. That the **Union Pacific Railroad Co.** shall install and maintain a concrete-paneled crossing at-grade of **STH 140 (Church Street)** with its **Harvard Subdivision** tracks in accordance with the design plans of the Wisconsin Department of Transportation in the Village of Clinton, Rock County by **June 15, 2008** (crossing no. 177 968V). The timing of construction shall be coordinated with the Wisconsin Department of Transportation.
3. That the **Union Pacific Railroad Co.** shall install and maintain one

cantilevered and one mast-mounted 12" LED automatic flashing light signal with gates, constant warning time circuitry, and other appropriate appurtenances in accordance with such plans as are filed with and approved by the Office of the Commissioner of Railroads at the crossing of its **State Line Subdivision** tracks with **STH 140 (Church Street)** at-grade in the Village of Clinton, Rock County by **August 15, 2008** (crossing no. 388 211V). The **cantilevered** signal shall be installed in the southeast quadrant for northbound traffic. The timing of the signal installation shall be coordinated with the Wisconsin Department of Transportation.

4. That the **Union Pacific Railroad Co.** shall install and maintain mast-mounted 12" LED automatic flashing lights with gates, constant warning time circuitry, and other appropriate appurtenances in accordance with such plans as are filed with and approved by the Office of the Commissioner of Railroads at the crossing of its **Harvard Subdivision** tracks with **STH 140 (Church Street)** at-grade in the Village of Clinton, Rock County by **August 15, 2008** (crossing no. 177 968V). The timing of the signal installation shall be coordinated with the Wisconsin Department of Transportation.

5. That if the existing automatic flashing lights need to be removed during construction, the **Union Pacific Railroad Co.** shall install and maintain retroreflective back-to-back crossbucks and 'stop' signs and 2" wide reflective vertical strips on the front and back of the support posts on each approach to the crossing of its **Harvard Subdivision** tracks with **STH 140 (Church Street)** at-grade in the Village of Clinton, Rock County (crossing no. 177 968V).

6. That the **Union Pacific Railroad Co.** shall submit to the Office of the Commissioner of Railroads signal and circuit plans with the cost estimate of its proposed installation and upon completion of the signal project, a detailed statement of the actual cost to the Office and to the Wisconsin Department of Transportation.

7. That the signal installation work herein ordered shall not begin until the regional office of the Wisconsin Department of Transportation informs the railroad that they may start such work and such start notice will not be issued until appropriate federal aid or other funding arrangements have been assured. The cost of the new project initiated before the start notice will not be reimbursed with public funds and shall be the responsibility of the railroad.

8. That the **Wisconsin Department of Transportation** shall not open STH 140 (Church Street) at the railroad crossings to unrestricted public use until the installation and activation of the automatic warning devices ordered above.

9. That the **Union Pacific Railroad Co.** shall bear 14% of the cost of the crossing construction. The public highway project shall bear the remaining costs, except for any cost assessed to the railroad pursuant to §195.60, Stats., for the investigation of this matter by the Office. The railroad shall not pass on those assessment costs either directly or indirectly.

10. That jurisdiction is retained.

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

By the Office of the Commissioner of Railroads.

Rodney W. Kreunen
Commissioner of Railroads

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