



Office of the Commissioner of Railroads

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May 9, 2007

9170-RX-221

Re: Petition of the City of Madison for the Alteration of a Public Crossing of Winnebago Street, the Closure of a Public Crossing of Division Street, and the Establishment of a Public Crossing of the Jackson Street Bike Path with the Tracks Owned by the Union Pacific Railroad Co. and Operated by the Wisconsin & Southern Railroad Co. in the City of Madison, Dane County

To The Person Addressed:

Enclosed with this letter you will find the Proposed Decision of the Hearing Examiner. This proposed decision is the hearing examiner's recommendation and not the final decision of the Commissioner of Railroads. The Commissioner will issue a final decision only after considering any written comments on the proposed decision.

Comments, either in support or in opposition, must be filed in writing in time to reach the Office of the Commissioner of Railroads (OCR) not later than 15 days from the date of this letter. One copy of the comments must be filed with the OCR and one copy served by regular mail or in person upon each party of record. Generally, "parties" include those persons and organizations listed in the "Appearance" section of the proposed decision (but not including any members of the OCR staff).

This 15-day period is your opportunity to file any comments on the proposed decision. Comments need not follow any particular format nor do they need to be elaborate. A clear, concise and specific explanation of your comments is sufficient and helpful. Short extensions may be granted upon request in writing or by telephone.

Sincerely,

Douglas S. Wood
Hearing Examiner

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Enclosure

07 MAY 11 11:20 AM

BEFORE THE OFFICE OF THE COMMISSIONER OF RAILROADS

STATE OF WISCONSIN

In the Matter of the:

Petition of the City of Madison for the Alteration of a Public Crossing of Winnebago Street, the Closure of a Public Crossing of Division Street, and the Establishment of a Public Crossing of the Jackson Street Bike Path with the Tracks Owned by the Union Pacific Railroad Co. and Operated by the Wisconsin & Southern Railroad Co. in the City of Madison, Dane County

9170-RX-221

PROPOSED DECISION

By letter dated February 20, 2007, the City of Madison petitioned the Office of the Commissioner of Railroads (OCR) for the alteration of a public crossing of Winnebago Street (crossing no. 177 321X / MP 80.21), the closure of a public crossing of Division Street (crossing no. 177 322E / MP 80.16), and the establishment of a public crossing of the Jackson Street Bike Path with the tracks owned by the Union Pacific Railroad Co. (UP) and operated by the Wisconsin & Southern Railroad Co. (WSOR) in the City of Madison, Dane County.

The City also proposes that the OCR order the railroad to upgrade the warning devices at the Winnebago Street crossing at the city's cost.

Jurisdiction: Secs. 195.28 and 195.29, Stats

Pursuant to due notice, public hearing was held in this matter on April 20, 2007, in Madison, Wisconsin with hearing examiner Douglas S. Wood presiding.

Appearances:

Parties

City of Madison, Petitioner
by
Anthony Fernandez, PE
Engineering Division
210 Martin Luther King Jr. Blvd.
Madison, WI 53703

Winnebago Street

Winnebago Street is a 4-lane roadway and intersects the tracks at an angle of 30° (right-hand forward). The crossing consists of one mainline track. La Follette Avenue intersects Winnebago Street at the same 30° skew angle about 25' south of the tracks. The City proposes to improve the angle of intersection between La Follette Avenue and Winnebago Street to nearly 90°. This improvement requires the relocation of the intersection closer to the tracks. In order to accommodate this change the crossing needs to be lengthened by about 25'.

The existing timber-plank and asphalt crossing was installed in 2004 and is in good condition. The City proposed that the extra 25' simply be added to the existing width.

The City plans to narrow Winnebago Street slightly and to add medians on the approaches to the crossing. The medians will narrow the lanes to 17' north of the crossing and 23' south of the crossing.

Winnebago Street carried 4850 ADT (average daily traffic) in 2004. Division Street carried 400 ADT (average daily traffic) in 2004. It is reasonable to assume that most of motorized traffic on Division Street will use Winnebago Street. The speed limit is 25 mph on both streets.

The exposure factor at this crossing is about 50,000. The exposure factor equals the product of the number of trains per day and the number of highway vehicles per day, which yields a numerical value for the potential conflicts each day at the crossing.

Five train-vehicle accidents have occurred at this crossing since 1973. The crashes occurred in 1974, 1976, 1978, 1979, and 1991. Train-activated crossing signals were installed at the Winnebago Street crossing in 1979.

The crossing presently has old rotatable cantilevered signals for warning devices. These warning devices are inadequate for the new roadway. 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 are needed on three approaches. The third set of gates and lights is needed for the La Follette Avenue intersection. Because the median will narrow the southbound approach (north of the crossing) to 17', cantilevered signals are not needed and mast-mounted signals will be adequate.

On the northbound approach, under the City's proposed design a cantilevered signal would be needed unless the median is widened by 6" from 8' to 8' 6". The **proposed** order requires the City to change its design plan to accommodate mast-mounted signals in the median for northbound traffic. Bells will be needed on both sides of Winnebago Street.

order and require the City of Madison to cause the removal of the fence through its own police powers as a condition of approving the alteration of the crossing

Retaining the automatic flashing lights would require an upgrade in circuitry at a not inconsequential cost. The **hearing examiner** agrees that retaining the automatic flashing lights is not warranted. However, the **hearing examiner** concludes that crossbucks and **stop signs** are needed. Yield signs would not be adequate due to the inadequate corner sight distance.

The City shall bear the cost to alter the crossing. The railroad shall bear the cost to remove the automatic flashing lights, but may also retain and use those warning devices.

The OCR is also concerned that possible future passenger operations at this location may make the crossing unsafe unless the warning devices are upgraded. Therefore, the **proposed** order requires that in the event that passenger trains operations commence over this crossing, then the City of Madison shall be responsible for any cost to upgrade the warning devices at this crossing.

In summary, the alteration of the crossing at-grade of the tracks with Division Street will promote public safety and convenience by eliminating a roadway crossing, providing a safe location for pedestrians and bicyclists to cross the tracks, and providing a critical link to the Union Corners development.

Quiet Zone and Pedestrian Crossings

There was some discussion about the applicability of the federal train horn rule to pedestrian crossings. The authority to interpret the federal rule resides with the Federal Railroad Administration (FRA). The revised final rule issued on August 17, 2006 added two sections specifically addressing "pedestrian crossings". Both the altered Division Street and the new Jackson Bike path crossings fall under the definition. The rule neither requires nor prohibits the sounding of the train horn at these crossings if they are not located within a quiet zone. However, the rule not only allows, but actually *requires* that pedestrian crossings within the physical limits of a quiet zone be included in the quiet zone designation. The rule does not specify specific warning devices that must be installed at pedestrian crossings within a quiet zone, except for signs advising pedestrians that train horns are not blown for the crossing. See 49 CFR sections 227.9 (definition of *Pedestrian grade crossing*) and 222.27 (*How does this rule affect pedestrian grade crossings?*).

Jackson Street Bike Path

Jackson Street Bike Path would be 10' wide with 2'-wide grass shoulders and will intersect the tracks at a nearly 90° angle.

As at Division Street, the City did not project a specific amount of usage, but expects 'substantial use' year-round. The Jackson Street Bike Path would provide access to the Union Corners development.

5. That in order to adequately protect and promote public safety, it is necessary to install and maintain reflective crossbucks and stop signs at the **Division Street** crossing.

6. That it is reasonable that the Wisconsin & Southern Railroad Co. bear no part of the cost for the crossing construction, but shall remove the signals from the Division Street crossing at its own expense and be allowed to retain that salvaged equipment.

PROPOSED CONCLUSION OF LAW

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

PROPOSED ORDER

The hearing examiner recommends:

Winnebago Street

1. That the **Wisconsin & Southern Railroad Co.** shall install and maintain a crossing at-grade of **Winnebago Street** with the tracks owned by the Union Pacific Railroad Co. and operated by the Wisconsin & Southern Railroad Co. in accordance with the design plans of the City of Madison in the City of Madison, Dane County by **October 15, 2007**. (Crossing No. 177 321X / MP 80.21)

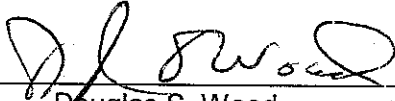
2. That the **Wisconsin & Southern Railroad Co.** shall install and maintain mast-mounted 12" LED automatic flashing lights with gates, constant warning time circuitry, and other appropriate appurtenances in accordance with such plans as are filed with and approved by the Office of the Commissioner of Railroads at the crossing of the tracks owned by the Union Pacific Railroad Co. and operated by the Wisconsin & Southern Railroad Co. with **Winnebago Street** at-grade in the City of Madison, Dane County by **October 15, 2007** (Crossing No. 177 321X / MP 80.21). **The City of Madison** shall provide a **median at least 8' 6" in width** to allow for mast-mounted signals to be installed on the northbound (south side) approach. That the **Wisconsin & Southern Railroad Co.** shall install a **bell on each side** of the crossing.

3. That the **Wisconsin & Southern 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 **City of Madison**.

12. That jurisdiction is retained.

Dated at Madison, Wisconsin, MAY 09 2007

By the Office of the Commissioner of Railroads.

A handwritten signature in black ink, appearing to read "D. S. Wood", written over a horizontal line.

Douglas S. Wood
Hearing Examiner

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