

BEFORE THE OFFICE OF THE COMMISSIONER OF RAILROADS

STATE OF WISCONSIN

On the Commissioner's Own Motion for a Determination of the Adequacy of Warning Devices at the Grade Crossing of the Wisconsin Central Ltd. Tracks with Garfield Avenue in the City of Menasha, Winnebago County.

9164-RX-723

FINDINGS OF FACT AND ORDER

On March 2, 2009, the Commissioner of Railroads directed the staff of the Office of the Commissioner of Railroads (OCR) to investigate the adequacy of warning devices under §195.28, Stats., at the grade crossing of the Wisconsin Central Ltd. (WCL) tracks with Garfield Avenue (Crossing No. 690 276S) in the City of Menasha, Winnebago County.

An OCR investigator inspected the crossing in May 2009. No hearing was held.

The Commissioner of Railroads position is currently vacant. Former Commissioner Breske has retired and the Governor has not nominated a new Commissioner. In the meantime, the hearing examiner is authorized to issue orders in uncontested matters.

Findings of Fact

THE COMMISSIONER FINDS:

Garfield Avenue is 36' wide in the vicinity of the crossing and intersects the railroad tracks at an angle of about 90°. The roadway approaches to the crossing are flat. Garfield Avenue carries an average daily traffic (ADT) of 1500 according to DOT records at a speed limit of 35 mph.

The WCL operates 6 through and 2 switch train movements per day over the crossing. The maximum timetable speed on the Manitowoc Subdivision is 35 mph. At the crossing, however, the maximum timetable speed is 20 mph and the minimum typical speed is 5 mph. The crossing consists of one mainline track.

A driver traveling at 35 mph needs a distance of 281' to stop safely. The crossing warning devices are visible from more than 281' in each direction. The approach sight distance is adequate.

Assuming a train speed of 20 mph, a driver traveling at 35 mph needs to see a train when it is 205' from the crossing from a point 281' down the highway. The sight distance available is less than 205' in the southeast and northeast quadrants. The corner sight distance is inadequate in those two quadrants.

At all crossings, except those with gates, a driver stopped 15' short of the near rail must be able to see far enough down the track, in both directions, to determine if sufficient time exists for moving their vehicle safely across the tracks to a point 15' past the far rail, prior to the arrival of a train. Required clearing sight distance along both directions of the track, from the stopped position of the vehicle, is dependent upon the maximum train speed and the acceleration characteristics of the "design" vehicle. The necessary clearing sight distance at the Garfield Avenue crossing is 450'. The available clearing sight distance is more than 450'. The clearing sight distance is adequate.

The exposure factor at this crossing is 12,000. 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.

Six train-vehicle accidents have occurred at this crossing since 1973. The crashes occurred in 2008, 2004, 2000, 1996, 1992 and 1980.

The Wisconsin Department of Transportation has produced a benefit-cost analysis for all at-grade crossings in the state. Installing new automatic flashing lights with gates and constant warning time circuitry at the Garfield Avenue crossing has a net benefit of about \$(27,000). The benefit-cost ratio is about 0.88 meaning that the public will receive \$0.88 in safety benefits for each dollar expended.

The crossing is presently protected with reflective crossbucks and stop signs. Conditions warrant upgrading the warning devices at this crossing as part of the state and federal rail-highway crossing safety program. 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.

The Wisconsin Central Ltd. shall notify the Office of the Commissioner of Railroads upon completion of the signal project.

Source of funding: The signal materials and installation shall be paid from state and federal OCR safety funds.

The City may want to consider constructing medians on the approaches to the crossing in association with the installation of the new warning devices. Installing medians in combination with crossing gates significantly improves the safety of the crossing. Combining medians with gates also generally constitutes either an approved Supplementary Safety Measure or an Alternative Safety Measure under the federal quiet zone rules (See 49 CFR 222.9, 222.53 and Appendix A to Part 222). Installation of medians may require a change in the location of the signal masts and thus installation of the medians must be coordinated with the installation of the new warning devices. The City may contact the OCR for assistance in arranging this coordination.

Conclusion on the Issue

THE COMMISSIONER CONCLUDES:

That in order to adequately protect and promote public safety, it is necessary to install and maintain 12" LED automatic flashing lights with gates at the crossing of the tracks of the Wisconsin Central Ltd. with Garfield Avenue in the City of Menasha, Winnebago County.

Conclusion of Law

THE COMMISSIONER CONCLUDES:

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

Order

THE COMMISSIONER ORDERS:

1. That the **Wisconsin Central Ltd.** shall install and maintain 12" LED automatic flashing lights with gates with 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 tracks with **Garfield Avenue** at-grade in the City of Menasha, Winnebago County by **December 31, 2012** (Crossing No. 690 276S).
2. That the **Wisconsin Central Ltd.** 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.
3. 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.
4. That the Wisconsin Central Ltd. shall notify the Office of the Commissioner of Railroads upon completion of the signal project.
5. That the **Wisconsin Central Ltd.** shall bear no part of the cost of the crossing signal materials or installation, 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.

6. That the **City of Menasha** shall bear no part of the cost of the crossing signal materials or installation.

7. That if the petitioner, railroad or any interested party objects to this order and requests a hearing within 20 days of the date of this order in writing, the Office will hold a public hearing.

8. That jurisdiction is retained.

Dated at Madison, Wisconsin, APR 06 2011

By the Office of the Commissioner of Railroads.



Douglas S. Wood
Hearing Examiner

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