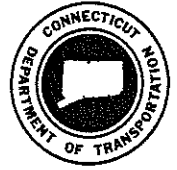




STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION



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DOCKET NO. 0611-R-104-R

RE: IN THE MATTER OF THE PETITION FROM THE TOWN OF WINDHAM
TO IMPROVE THE SAFETY OF RAILROAD CROSSINGS ON THE
WILLIMANTIC BRANCH OF THE PROVIDENCE AND WORCESTER
RAILROAD COMPANY IN WINDHAM.

FINAL DECISION

March 15, 2007

I. INTRODUCTION

A. Petitioner's Proposal

By petition dated April 24, 2006, pursuant to Connecticut General Statutes Section 13b-275, Michael T. Paulhus, the First Selectman of the Town of Windham (petitioner), requested a public hearing to discuss safety improvements at a railroad crossing on State Route 203, Windham Center Road, in Windham Connecticut. The Department of Transportation responded by letter dated May 8, 2006, that the rail crossing was being reviewed by the Department's Rail Regulatory Unit and their findings would be presented at a public hearing.

On June 13, 2006, a community meeting was held in Willimantic to discuss the opening of the railroad crossing.

On December 18, 2006, Joseph Gardner, the Windham Town Engineer, sent a letter to Commissioner of the Department of Transportation again asking that a public hearing be held pursuant to Section 13b-275 of the Connecticut General Statutes. In addition, Mr. Gardiner disclosed concerns brought to light by the Windham Fish & Game Club, Inc. about the reactivation of the rail line over another railroad crossing on Mannings Bridge Road in Willimantic. Mannings Bridge Road is the access road for the Windham Fish & Game Club. The Department responded by letter dated January 11, 2007 that representatives of the Windham Fish and Game Club would be invited to attend the public hearing to express their concerns.

At the hearing, the town requested that the Route 203 crossing have sightline improvements, vehicle gate arms, signalization, signs and road markings. At the Mannings Bridge Road the town has asked for sightline improvements, signs and markings. The Town of Windham has deferred to the Department of Transportation as to the need for signalization at the Mannings Bridge Road crossing.

B. Providence and Worcester Railroad Company's Proposal

The Providence and Worcester Railroad Company is planning to extend revenue service on the Willimantic Branch. The railroad currently runs freight service through the towns of Plainfield, Canterbury and Lisbon and plans to continue service through the towns of Sprague, Scotland and Windham. The extension of service from the Versailles Yard to the Willimantic Yard will restore an additional 15.02 miles of existing track.

The Providence and Worcester Railroad Company is planning to operate approximately two train movements daily at operating speeds between ten and forty miles per hour through the crossing. As part of the restoration of rail service, the Providence and Worcester Railroad Company has removed the "exempt" sign at the crossing and has reenergized the railroad flashing lights. Currently, advance crossing warning signs, crossbucks and railroad flashing lights are the existing warning devices at the crossing on Route 203.

The Providence and Worcester Railroad Company testified that it did not study the Mannings Bridge Road crossing prior to the public hearing.

C. Hearing Held

Pursuant to Connecticut General Statutes Section 13b-275, a public hearing on this petition was held at the Windham Town Hall at 979 Main Street, Willimantic, Connecticut on February 28, 2007.

Notice of the petition and hearing to be held thereon was given to the petitioner and to such other parties as deemed necessary by the department. Legal notice to the public was given by publication in the Willimantic Chronicle, a newspaper having circulation in the area of concern.

The hearing on this matter was conducted by a hearing officer, designated by the Commissioner of Transportation, pursuant to Connecticut General Statutes Section 13b-17.

D. Appearances

Mr. Michael T. Paulhus, First Selectman of the Town of Windham, appeared on behalf of the petitioner. Mr. Paulhus' mailing address is the Windham Town Hall, 979 Main Street, Willimantic, Connecticut 06226.

State Representative Walter Pawelkiewicz appeared on behalf of the 49th district. Representative Pawelkiewicz's mailing address is Legislative Office Building, Room 4010, Hartford, Connecticut 06106.

Mr. Joseph Gardner, Windham Town Engineer appeared on behalf of the town. Mr. Gardner's mailing address is 979 Main Street, Willimantic, Connecticut 06226.

Mr. Bernard Cartier, Director of Engineering, appeared on behalf of the Providence and Worcester Railroad Company. Mr. Cartier's mailing address is 75 Hammond Street, Worcester, Massachusetts 01601.

Mr. Gilbert Smart, Supervising Rail Officer, appeared on behalf of the Bureau of Public Transportation, Rail Regulatory & Compliance Unit. Mr. Smart's mailing address is 50 Union Avenue, 3rd Floor West, New Haven, Connecticut 06519.

II. FINDINGS OF FACT

1. The subject crossings are on the Willimantic Branch of the Providence and Worcester Railroad Company. There are two separate crossings affected by the reactivation of the Providence and Worcester rail line. One crossing is on Route 203, Windham Center Road in Willimantic and the other crossing is on Mannings Bridge Road in Willimantic.
2. The existing warning devices at the Route 203 railroad crossing are advance crossing warning signs, crossbucks and railroad flashing lights.
3. The Providence and Worcester Railroad Company plans to operate two trains a day over the crossing with speeds from ten to forty miles per hour. Providence and Worcester plans to operate the train speed at ten miles per hour for the foreseeable future.
4. There are approximately 4200 daily motor vehicle movements over the Route 203 railroad crossing.
5. The average motor vehicle speed over the Route 203 crossing is in excess of the posted 35 miles per hour. Joseph Gardiner, the Windham Town Engineer, found the vehicle speed at the crossing to be in excess of 40 miles per hour. He also found the sight lines to be inadequate according to ASHTO standards for motor vehicle traffic traveling forty miles per hour.
6. The Town of Windham proposes that the Route 203 crossing have the railroad flashing lights re-energized, installation of vehicular gate arms, new pavement markings, sight line improvements and new warning signs.
7. Brad Wojick, the Public Works Superintendent, testified that there is a problem with the sightlines from the Windham center at the Route 203 railroad crossing.
8. The Department of Transportation Rail Regulatory Unit has decided that new pavement markings, signs and the re-activation of the flashing lights will provide sufficient warning at the Route 203 crossing if the Providence and Worcester Railroad Company only operates trains at the proposed ten miles an hour. The Department's Rail Regulatory Unit recommends that gate arms be installed at the crossing at some point in time.
9. The maximum speed a freight train may achieve in the state is 40 miles per hour.
10. The Providence and Worcester railroad has already installed new flashing lights at the Route 203 crossing and removed the "exempt" sign which was attached to the warning sign.
11. The Route 203 railroad crossing has been closed for over ten years.

12. Installation of gate arms could take as long as six months or more from design to installation. The cost of installing gate arms would be approximately \$100,000 to \$125,000.

13. The Providence and Worcester Railroad Company wants to reopen the railroad crossing at the end of March or early April 2007.

14. Several town residents participated in the hearing. The residents are concerned that the crossing had been closed for ten years and drivers may not easily adapt to its reopening. There was also concern about the speed vehicles are traveling on Route 203 and the bad sight lines that would prevent drivers from seeing the railroad crossing.

15. Lloyd Niles, Windham Fire Chief, is concerned about the sight lines coming Southwest from Windham center. He proposed installation of an audible signal and vehicular gate arms.

16. The State of Connecticut owns the railroad crossing at Route 203. The Providence and Worcester Railroad Company has a long term lease for the property.

17. The Rail Regulatory Unit found the sight lines coming from the Southwest on Route 203 to be on the border line of being acceptable given the train speed of ten miles per hour. The Department has additional sightline improvements planned for the future.

18. John Pellitier, President of the Windham Fish and Game Club, testified concerning the crossing on Mannings Bridge Road, the access road to the club. Mr. Pellitier testified that the sight line looking north is inadequate. He suggested that lights or an active warning signal be installed.

19. The Windham Fish and Game club has approximately 200 members. The average number of motor vehicle crossings is ten to fifteen daily except on occasional days when fifty to one hundred motor vehicle crossings may be made on a single day. Most members have trucks and some may be towing boats twenty-five feet in length.

20. Roger Vertefeulle, a member of the Windham Fish and Game Club spoke about the close accidents that used to occur when the railroad crossing was active over Mannings Bridge Road. Mr. Vertefeulle testified that the sight line is not good at the railroad crossing. He recommended warning signs and flashing lights be installed at the railroad crossing.

21. There is some confusion about the ownership of Mannings Bridge Road, an unimproved dirt road up to the railroad tracks and private property after the tracks. The Town of Windham has been snow plowing and maintaining Mannings Bridge Road and has claimed it as a town road.

22. The Rail Regulatory Unit believes that for trains traveling ten miles an hour there is enough siteline distance to comply with the ASHTO required sight line standards of 98 feet at Mannings Bridge Road. There will be further sightline improvements made at this sight.

23. The Town of Windham seeks to have markings, signage and sightline improvements at Mannings Bridge Road.

III. DISCUSSION

The petitioner's request is to have various safety improvements made to the aforementioned crossings in accordance with Connecticut General Statutes Section 13b-275.

Regarding the Route 203 crossing several facts are known. This is a road which has approximately 4200 motor vehicle movements per day. The public often travels at an excess of the 35 miles per hour posted speed for this section of road. The sightlines are not good, especially coming from the center of Windham in the Southwest direction. The railroad has not crossed this section of highway in more than ten years. The two train movements a day will be traveling at a speed between ten and forty miles per hour. While the Providence and Worcester Railroad plans to operate at ten miles per hour at this time, the railroad is not committing to stay at that speed or level of service which it may increase as revenue dictates.

The Town of Windham is requesting that new highway signs be placed at the Route 203 railroad crossing to warn drivers of the re-activation of the railroad crossing. The town argues that the public may take more notice of new signs which will alert them as to the change in the crossing status. The current signs that are at the crossing are the same signs that have been there for years except that the small sign attached with the word "exempt" has been removed. Such a minor change in the signs may not fully alert the public to the change in the crossing status. The Department of Transportation has agreed that it would install new warning signs.

The town is also seeking new pavement markings to be made on the roadway approaching the crossing because the existing paint has faded. The Department of Transportation has agreed that it will paint new highway markings when the temperature allows for good paint adhesion.

Providence and Worcester Railroad has already installed new flashing lights at the crossing. This is a good temporary measure, but the facts in this case dictate that public safety would best be served by increasing the protection at this crossing due to the volume of vehicles over the crossing and the speed of the vehicles in excess of the 35 mile an hour speed limit. The railroad initially plans to have two train movements a day with train speeds of ten miles per hour. While this may be the railroad's intention at this time, the railroad also indicated that it could operate more trains per day up to train speeds of forty miles per hour. Given the level of uncertainty as to how rail operations may be in the future, a higher level safety should be put into place. In addition, the fact that this crossing has been closed for over ten years and the drivers are used to it being closed necessitates the installation of railroad vehicular gates to protect the public.

Therefore, vehicular gate arms will be installed by the railroad as soon as possible. Funding for these devices will be assigned to the party who has the responsibility for installing active warning devices pursuant to the lease agreement that the railroad has in place with the State of Connecticut. The railroad has expressed a desire to start using the railroad crossing within the next few weeks. The railroad will be allowed to utilize the railroad crossing only after providing a flagman to stop vehicle traffic at the crossing each time it traverses Route 203 to ensure that it is clear from vehicular traffic. This precaution shall remain in effect until railroad vehicular gates are fully installed and operational at the crossing.

With respect to the Mannings Bridge Road crossing, there was evidence presented as to the bad sightlines at the crossing. There is an average traffic flow over the railroad crossing of ten to fifteen vehicles but on occasion there may be one hundred vehicles a day over the crossing. Some of the vehicles tow boats which may reach twenty-five feet in length. This crossing has also not been utilized for ten years or more. The roadway is not improved at this time and there is some question as to who owns the road and adjacent property. The Town of Windham has asked for new signage, markings and sightline improvements at this crossing.

Although there was testimony from several members of the Windham Fish & Game Club as to the potential dangers at the Mannings Bridge Road crossing, the Town of Windham has only requested new signage and has deferred to the Department of Transportation as far as the warning devices required. The Department of Transportation Rail Regulatory Unit testified that the existing crossing is acceptable in its current condition for train speeds of ten miles per hour. Since there are a limited number of vehicles utilizing this crossing, no active warning devices will be ordered at this time.

However, given the fact that this railroad crossing has been inactive for ten years and there are vehicles towing boats over the crossing, there needs to be new warning signs installed to give drivers advance warning. Therefore, the Providence and Worcester Railroad Company will provide the Town of Windham with new railroad warning signs. Since Mannings Bridge Road is being maintained by the Town of Windham and the town has claimed the road, it will be the town's responsibility to install these signs. Although the town requested markings for Mannings Bridge Road, since it is an unimproved dirt road, pavement markings will not be possible.

Additional sightline clearance also needs to occur at the Mannings Bridge Road crossing. The Department's Rail Regulatory Unit testified that there will be more additional improvements made to the sightline. The Department of Transportation shall be responsible for improving the sightlines on state property at this crossing to the extent that is necessary given the volume of the train speed, volume of vehicular traffic and train volume.

IV. CONCLUSION & ORDER

Based on the evidence of record and pursuant to Connecticut General Statutes Section 13b-275, the following safety measures and orders shall be undertaken and completed:

State Route 203-Windham Center Road

1. The Providence and Worcester Railroad Company shall provide new warning signs for the Route 203 railroad crossing. The Department of Transportation shall install the advance warning signs on Route 203.
2. The Department of Transportation shall repaint advance warning pavement markings on the road surface of Route 203 as soon as temperatures allow good paint adhesion.
3. The Department of Transportation shall improve sight lines at the Route 203 railroad crossing, especially the Southwest sight line.
4. Providence and Worcester Railroad shall install railroad flashing lights including cantilever lights, vehicular gates and related track circuitry as soon as possible. Since the railroad may need additional time to install the vehicular gates, flagmen shall be used to stop traffic in both directions each time the train traverses Route 203. In the interim, railroad flashing lights that were installed at the crossing shall be activated. All warning devices installed must be approved by the Department's Rail Regulatory and Compliance Unit before activation. Installation of warning devices shall be in accordance with the latest edition of the Manual on Uniform Traffic Control Devices.
5. Any proposed construction will be governed by the provisions of the Department of Transportation's Standards Specifications for Road, Bridges and Incidental Construction and in accordance with the Standards and Specifications of the Association of American Railroads and American Railway Engineering Association.
6. The Town of Windham shall work with the State police to initiate enforcement of the 35 mile an hour speed limit on Route 203, Windham Center Road.

Mannings Bridge Road:

1. The Providence and Worcester Railroad Company shall provide the Town of Windham with new railroad warning signs for the Mannings Bridge Road. The Town of Windham will be responsible for installation of the warning signs since the town is claiming ownership of the road.

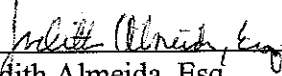
2. The Town of Windham and the Department of Transportation shall work together to find out who legally owns Mannings Bridge Road and the property surrounding the railroad crossing.

3. The Department of Transportation shall be responsible for sightline improvements at the Mannings Bridge Road crossing so that the sightline distance is acceptable given the volume and speed of the trains crossing Mannings Bridge Road and the vehicular traffic utilizing the road.

4. Providence and Worcester Railroad is responsible for informing the Town of Windham if it plans to increase the train speed beyond ten miles per hour so that the town may petition for increased safety measures, if needed at this crossing.

Dated at Newington, Connecticut, on this 15th day of March, 2007.

CONNECTICUT DEPARTMENT OF TRANSPORTATION



Judith Almeida, Esq.
Staff Attorney III
Administrative Law Unit
Bureau of Finance and Administration