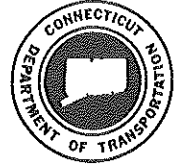




STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION



2800 BERLIN TURNPIKE, P.O. BOX 317546
NEWINGTON, CONNECTICUT 06131-7546

Phone:
(860) 594-2863

DOCKET NO. 1604-36-RR

RE: IN THE MATTER OF THE PETITION FROM DEPARTMENT OF
TRANSPORTATION'S OFFICE OF FACILITIES DESIGN TO PERMANENTLY CLOSE THE
PRIVATE AT GRADE RAIL CROSSING ON NORTON LANE IN BERLIN, CONNECTICUT

FINAL DECISION

June 3, 2016

I. INTRODUCTION

A. Petitioner's Proposal

By petition dated March 2, 2016, pursuant to Connecticut General Statutes Section 13b-292(e) and assigned Docket No. 1604-36-RR, the Department of Transportation's Office of Facilities Design (Petitioner), proposes to close a private rail crossing on Norton Lane in Berlin, Connecticut to vehicular and pedestrian traffic.

B. Hearing Held

Pursuant to Connecticut General Statutes Section 13b-292(e), a public hearing on this petition was held at the administrative offices of the Department of Transportation (Department) in Newington, Connecticut on May 5, 2016.

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 on the Department's website at www.ct.gov/dot.

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.

C. Appearances

The Office of Facilities Design was represented by Richard E. Bertoli, Jr., a Senior Engineer, and Jeffery T. Schultz, a Senior Principal Technical Specialist, from Parsons Brinckerhoff. The mailing address for Parsons Brinckerhoff is 500 Winding Brook Drive, Glastonbury, CT 06033.

Anthony Arcari, Rail Officer 2, from the Department of Transportation's Office of Rail also presented evidence in this matter on behalf of the department.

Steven Degen, Supervising Property Agent, from the Department of Transportation's Rights of Way, presented evidence in this matter.

David W. Bogan, Esq. from the law firm of Locke Lord, LLP represented Comcast of Connecticut but did not receive party or intervenor status in the matter.

Teresa and Joe Lagosz, the occupants of 468 Norton Lane in Berlin, participated in the hearing but did not receive party or intervenor status in the matter.

II. FINDINGS OF FACT

1. The subject at grade rail/highway crossing is on Norton Lane in Berlin, Connecticut on milepost 22.04 of the Springfield Line of the National Railroad Passenger Corporation ("Amtrak"). As part of the New Haven-Hartford-Springfield rail project the department has initiated the closure of the crossing.
2. Norton Lane is a town road. The Town of Berlin's property ends on the easterly side of the crossing at the Amtrak right of way. The crossing itself is owned by Amtrak.
3. The State of Connecticut owns the land on the west side of the crossing. As of the date of the hearing, tenants Joe and Teresa Lajosz reside on this state owned property at 468 Norton Lane and must use the crossing to access the property. There is an ongoing court proceeding to resolve the assessment of damages for the State's taking of the property located at 468 Norton Lane.
4. Jack Healy, Public Works Director for the town of Berlin, is concerned with access of emergency vehicles to 468 Norton Lane if the rail crossing is closed prior to the tenants' relocation.
5. The rail crossing will not be closed until the tenants have vacated.
6. Once the crossing is closed, the utilities that are currently servicing the property at 468 Norton Lane will be removed in conjunction with Comcast.
7. At the current time, there are six (6) train round trips over the crossing. It is anticipated that number will increase to seventeen (17) train round trips in 2018 and possibly as many as fifty (50) passenger trains a day in the future.
8. At the current time, train speeds are 80 miles per hour over the crossing. Train speeds will increase to 95 miles per hour in 2018.
9. It is estimated that there will be thirty minute peak hour service and hourly off peak service across this crossing.
10. A second train track which previously existed in this location in the 1980's will be reinstalled on this rail line.
11. There have been four accidents at the crossing since 1974. The most recent accident occurred in June 2014 between an Amtrak train and a utility truck which resulted in seven injuries and substantial damage to the Amtrak train.

12. The existing crossing has a paved surface, a single track, no sidewalk, a gate on the west side, and is located on a curve. The signage at the crossing consists of a stop sign and a crossing warning sign.

13. The crossing removal will be paid for by sixty (60) percent state funds and forty (40) percent federal funds with Amtrak performing the work.

14. The reasons for closing the crossing include safety, the installation of the second track, site line issues, low vehicular volume, crossing redundancy, future track geometry, minimal pedestrian crossing and future high speed rail operations over the crossing.

15. It is proposed that the crossing surface and existing signage be removed, concrete barriers be installed on both sides of the crossing and new signage will be placed on the eastern side indicating a closure of the road.

16. The Office of Rail fully supports the closure of the Norton Lane crossing.

III. APPLICABLE LAW

The hearing in this matter for the closure of the private at grade crossing on Norton Lane was held pursuant to Connecticut General Statutes Section 13-292(e). The statutory language of this section allows the Commissioner of the Department of Transportation the ability to close a private crossing if the necessity for the crossing has ceased or if such crossing constitutes hazard to public safety. A decision issued pursuant to section 13b-292(e) shall not constitute a final decision in a contested case and therefore is not subject to appeal under section 4-183.

IV. DECISION AND ORDER

The petitioner has demonstrated through sufficient evidence that the subject crossing constitutes a hazard to public safety. The geometry and site lines create a condition conducive to train-vehicular collisions which condition will only worsen with the significant increase in the number of trains that will be operated on New Haven-Hartford-Springfield Line at higher speeds in the near future.

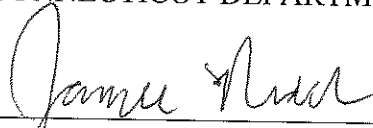
Accordingly, and pursuant to Section 13b-292(e) of the Connecticut General Statutes, it is hereby ordered that:

- The private at-grade rail crossing on Norton Lane in Berlin, Connecticut located at milepost 22.04 of the Springfield Line be closed to all vehicular and pedestrian traffic effective on the day the occupants of 468 Norton Lane have vacated;
- The Petitioner will be responsible for taking such steps as are necessary to close this crossing; and

- The Petitioner will be responsible for contacting the Department's Rail Regulatory and Compliance Unit once the crossing has been closed so that an inspection of the former at-grade railroad crossing is performed.

Dated at Newington, Connecticut this 3rd day of June, 2016

CONNECTICUT DEPARTMENT OF TRANSPORTATION



James Redeker
Commissioner