

**OFFICE OF THE COMMISSIONER OF RAILROADS****STATE OF WISCONSIN**

Complaint of the City of West Allis for the Repair of the Public  
Crossing of the Union Pacific Railroad Co. Tracks with STH 59 (W.  
Greenfield Avenue) in the City of West Allis, Milwaukee County

9040-RX-1331

**ORDER**

On April 4, 2017, the Office of the Commissioner of Railroads (Office), pursuant to Wis. Stat. § 86.12 and §§ 195.28 and 195.29, ordered the Union Pacific Railroad Co. (UP) to repair a defective concrete panel at the public crossing of its tracks with STH 59 (W. Greenfield Avenue) (Crossing No. 177242L) by May 18, 2017. (PSC REF#: 300765) An investigator from this Office inspected the crossing on March 3 and 7, 2017, and noted that one panel had corrosion and the metal plating was lifting up slightly. (PSC REF#: 299587) However, the investigator observed no vehicles slowing down or braking as they approached or travelled over the crossing.

The UP responded on March 28, 2017, concurring with the Office investigator's report and stating that it would replace one small concrete panel. (PSC REF#: 300096) On May 19, 2017, the UP requested an extension of time to June 16, 2017, to make the repairs. (PSC REF#: 303466) The Commissioner notes that UP's request comes one day after the original deadline expired and cautions the UP that it needs to be timely and responsive to Office orders.

**Order**

1. The UP shall repair or replace the concrete panel identified in the Office investigator's March 7, 2017 report, at the STH 59 crossing, by **June 16, 2017**.
2. The UP shall inform the Office upon completion of the repairs.
3. All other terms and conditions of the May 12, 2015, Final Decision; and April 4, 2017, Order shall remain in effect.

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4. This Order is effective one day after service.
5. Jurisdiction is retained.

*Yash Pal Wadhwa* <sup>SigPlus1</sup>

05/23/2017 10:14:50 am

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Yash P. Wadhwa, P.E.  
Commissioner of Railroads

DA:jg DL: 01540327

See attached Notice of Rights

OFFICE OF THE COMMISSIONER OF RAILROADS  
610 North Whitney Way  
P.O. Box 7854  
Madison, Wisconsin 53707-7854

**NOTICE OF RIGHTS FOR REHEARING OR JUDICIAL REVIEW, THE TIMES  
ALLOWED FOR EACH, AND THE IDENTIFICATION OF THE PARTY TO BE  
NAMED AS RESPONDENT**

The following notice is served on you as part of the Commissioner's written decision. This general notice is for the purpose of ensuring compliance with Wis. Stat. § 227.48(2), and does not constitute a conclusion or admission that any particular party or person is necessarily aggrieved or that any particular decision or order is final or judicially reviewable.

*PETITION FOR REHEARING*

If this decision is an order following a contested case proceeding as defined in Wis. Stat. § 227.01(3), a person aggrieved by the decision has a right to petition the Office of the Commissioner of Railroads (Office) for rehearing within 20 days of the date of service of this decision, as provided in Wis. Stat. § 227.49. The date of service is shown on the first page. The petition for rehearing must be filed with the Office and served on the parties. An appeal of this decision may also be taken directly to circuit court through the filing of a petition for judicial review. It is not necessary to first petition for rehearing.

*PETITION FOR JUDICIAL REVIEW*

A person aggrieved by this decision has a right to petition for judicial review as provided in Wis. Stat. § 227.53. In a contested case, the petition must be filed in circuit court and served upon the Office within 30 days of the date of service of this decision if there has been no petition for rehearing. If a timely petition for rehearing has been filed, the petition for judicial review must be filed within 30 days of the date of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition of the petition for rehearing by operation of law pursuant to Wis. Stat. § 227.49(5), whichever is sooner. If an *untimely* petition for rehearing is filed, the 30-day period to petition for judicial review commences the date the Office serves its original decision.<sup>1</sup> The Office must be named as respondent in the petition for judicial review.

If this decision is an order denying rehearing, a person aggrieved who wishes to appeal must seek judicial review rather than rehearing. A second petition for rehearing is not permitted.

Revised: April 16, 2016

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<sup>1</sup> See *Currier v. Wisconsin Dep't of Revenue*, 2006 WI App 12, 288 Wis. 2d 693, 709 N.W.2d 520.

