



Amy Loudenbeck

REPRESENTING WISCONSIN'S 31ST ASSEMBLY DISTRICT

**Testimony of Rep. Amy Loudenbeck
Assembly Bill 738
Assembly Committee on Transportation
February 2, 2016**

Thank you to the Committee Chair and to my colleagues in the Assembly for the opportunity to provide testimony on Assembly Bill 738 relating to requiring the Department of Transportation to award a grant to Wisconsin River Rail Transit Commission for certain bridge repairs and making an appropriation.

This bill, if passed, will bring to closure a long history of frustration for the residents and local officials in the Town of Sharon in Walworth County.

The bridge itself was erected in the 1930s when the Chicago, Milwaukee & St. Paul Railway Company built a railroad across an existing road named Peters Road. The bridge is named the Peters Road Bridge and is referred to as P-64-0038 in the bill.

The State of Wisconsin, in cooperation with several local Rail Transit Commissions (RTCs), owns approximately 530 miles of railroad in 21 Wisconsin counties. Wisconsin's 1848 Constitution prohibited the state from investing in canals or railroads. To provide for needed public investment in the state's railroad system, local Rail Transit Commissions were formed to accommodate public acquisition and rehabilitation of rail lines needed to provide essential freight rail service that would otherwise be abandoned by major Class I railroads. The Constitution was modified in 1992 to allow direct state investment in railroads, but the partnership between the State, the local RTCs and the private railroads has worked well and is still being used. RTCs are legally permitted to own or control railroad infrastructure, with the state owning the real property underlying such railroad infrastructure (track, bridges, buildings, etc.).¹

Established by Charter in 1982, the Wisconsin River Rail Transit Commission (WRRTC) is made of appointed representatives from Crawford, Dane, Grant, Iowa, Jefferson, Rock, Sauk, Walworth, and Waukesha Counties. The Commission collaborates closely with the Wisconsin Department of Transportation (WDOT) and Wisconsin and Southern Railroad (WSOR) to see that their communities have quality and reliable access to freight rail service. WRRTC helps communities in southern Wisconsin be economically competitive through connection to the national rail system.²

¹ <http://www.aae.wisc.edu/pubs/misc/docs/deller.railroad.01.13.pdf>

² <http://www.wrrtc.org/>



Amy Loudenbeck

REPRESENTING WISCONSIN'S 31ST ASSEMBLY DISTRICT

There is quite a bit of interesting history on the ownership and operation of the Janesville to Fox Lake (IL) line (Fox Lake Segment) which the Peters Road Bridge crosses. I won't go into detail, but it includes at least two bankruptcy filings and the death of a key industry member.³

The Fox Lake Segment was actually closed for a number of years, during which time the state wrote to the Town of Sharon indicating that it was assuming responsibility for the bridge until a new operator was found.

I have provided a packet for each of you outlining the complicated history of correspondence related to bridge maintenance since approximately 1986. As you can see from the documents provided, the Town of Sharon has attempted on numerous occasions to request that "responsible parties" take appropriate action to repair or maintain the bridge.

As you can see from the correspondence, various town officials (or their legal counsel) have sent requests for assistance to Walworth County, Wisconsin Southern Railroad, the Wisconsin Department of Transportation, the Wisconsin River Rail Transit Commission, and the Office of the Commissioner of Railroads.

In summary, the Town's requests have been generally met with polite acknowledgement. However, none of the parties involved are willing to take responsibility for maintaining or replacing a bridge that is almost 90 years old, is functionally obsolete, and (as of June of 2014) is closed. The bridge isn't an asset to anyone in its present condition. It's a liability. But it is an important lifeline for residents of the Town.

In closing, the Town of Sharon is asking the state to take responsibility for this bridge that crosses a "publicly owned freight corridor". The Town *does not own* this infrastructure and is unwilling and unable to take on the legal or financial obligation of replacing it.

After replacement of the bridge, as provided under the Assembly Bill 738, the Town is willing to assume ownership and take responsibility for any future maintenance and repairs.

Colleagues, thank you for your time today and for allowing me to share information about this important proposal.

³ <http://www.wrrtc.org/history>



State of Wisconsin \ DEPARTMENT OF TRANSPORTATION



January 9, 1986

TRANSPORTATION DISTRICT 2

141 N. W. Barstow Street
P. O. Box 649
Waukesha, WI 53187
Telephone: (414) 548-5902

Mr. Allen L. Morrison, Chairman
Town of Sharon
Route 1, P.O. Box 84
Sharon, WI 53585

Dear Mr. Morrison:

Subject: Maintenance Jurisdiction of the Peters Road Bridge
Crossing Over the State Owned Railroad Property
Town of Sharon
Walworth County

File Ref: 2-8-270

Bridge maintenance jurisdiction in a case similar to Peters Road once was in the hands of the operating railroad. When the railroads refused to do anything, maintenance jurisdiction was given over to the local road authority (town, county, state). Today, however, this rail line is in the rail bank and no railroad operates over the line. The rail property at Peters Road is part of the State owned property that runs to the community of Walworth with purchase from Walworth to Fox Lake pending.

Under the current situation, the State will take over maintenance jurisdiction of the Peters Road Structure (I.D. No. P-64-0038), along with biannual inspection and signing. The bridge engineer for District 2 is John Evanich.

In the future, after the Fox Lake segment is purchased and a new railroad is operating over this line, jurisdiction may once again revert, by agreement, back to the operating railroad.

Very truly yours,

WISCONSIN DEPARTMENT OF TRANSPORTATION

Harvey Shebesta
District Director

George F. Busch
George F. Busch
Railroad Planner

GFB:ykw
cc: R. Black
J. Evanich

Mr. John Evanich
Department of Transportation
141 North West Barstow Street
P. O. Box 649
Waukesha, Wisconsin 53187



Wisconsin Department of Transportation

Scott McCallum
Governor

Terrence D. Mulcahy, P.E.
Secretary

Division of Transportation
Infrastructure Development
Bureau of Railroads and Harbors
4802 Sheboygan Avenue, 155B
P O Box 7914
Madison, WI 53707-7914

January 23, 2002

Telephone: (608) 267-7348
Facsimile (FAX): (608) 267-3567

Ms. Mary Lou Meyer
N2690 Wise Road
Darien, WI 53114

Dear Ms. Meyer:

This letter is in response to your letter dated December 5, 2001 regarding the condition of the Peters Road Bridge over the rail corridor in the town of Sharon, Walworth County. As I indicated in our telephone conversation January 15, 2002, we have been reviewing issues related to the ownership and maintenance of the Peters Road Bridge, along with three other similar road bridges over the rail corridor in Walworth and Rock Counties. As a result, we have concluded that the bridges were initially constructed and subsequently maintained by the railroad, and were purchased by the Wisconsin Department of Transportation and the Wisconsin River Rail Transit Commission when the line was acquired from the Milwaukee Road.

Currently the Wisconsin Department of Transportation owns the railroad corridor, but the Wisconsin River Rail Transit Commission owns the improvements, including the bridges. By contract, the Wisconsin River Rail Transit Commission has passed on operation and maintenance of the rail line to the Wisconsin and Southern Railroad. I have spoken with representatives of both the Rail Transit Commission and the Railroad, and they will be working with local road authorities to maintain these structures.

I hope this helps answer some of your concerns about the bridge on Peters Road. If you have additional questions, feel free to give me a call at 608-267-3710.

Sincerely,

A handwritten signature in cursive script that reads "L. Frank Huntington".

L. Frank Huntington, Chief
Rail Project and Property Management Section

Cc Kent Vernon, Rep. Neal Kedzie's Office
Richard Scullion, WRRTC
Ben Meighan, WSOR

TOWNSHIP OF SHARON

OFFICE OF TOWN CLERK
SHARON, WISCONSIN

20057

Neal Kedzie
43rd Assembly Dist.
P.O. Box 8952
Madison, WI 53708-8952

Dear Neal,

We have a bridge over railroad tracks here in our township that is sadly in need of repair. It is located on Peters Road between S & D Townline Rd. and Shady's Rd. We have tried contacting the railroad to get it fixed, but to no avail. We are now seeking your help in resolving this matter.

We have enclosed two pieces of correspondence regarding the condition of this bridge. We are also enclosing copies of pictures we took before and after the bridge was "repaired". As you can see, this was a shoddy job! This bridge is in dire need of a professional and decent repair! It needs to be fixed immediately.

Could you please help us in getting some prompt action from the WSOR? Does someone have to be severely injured or die on this neglected structure before it is repaired properly?

The people who must cross this decaying bridge hope we hear from someone soon.

Thank you,

The Town Board of Sharon
Ed VanderVeen—Chairman
Bill Henning—Supervisor
Rich Brandl—Supervisor
262.736.4608

Ed VanderVeen
Bill Henning
Richard M. Brandl

Enclosures

Derksen, Paul

From: Martínez, Stephen
Sent: Tuesday, June 04, 2002 8:03 AM
To: Derksen, Paul
Subject: FW: Walworth County Railroad Bridges

FYI

-----Original Message-----

From: Buckett, Ross
Sent: Monday, June 03, 2002 12:40 PM
To: 'jtormey@wilbursmith.com'
Cc: Karow, Bruce; Gupta, Shiv; Bolitho, James; Tracey, James; Babler, David; Brian DuPont (E-mail); Olapo, Olubunmi; Berghammer, Donald; Martínez, Stephen; Szatmary, Herbert; Bolka, John; Adams, Ron
Subject: Walworth County Railroad Bridges

We have sorted through the information Re: bridges **P-64-38, P-64-89 and P-64-101** and verified ownership, maintainer and inspection responsibilities. The information given below supercedes earlier memos on this subject.

Ownership - The owner is **Wisconsin River Rail Transit Commission**, (WRRTC). WRRTC is a public body composed of various counties (Crawford, Grant , Iowa, Dane, Sauk, Rock, Walworth and Waukesha).

The contact person for WRRTC is Mr. Ken Lucht, 426 Karrmann Library, Platteville, WI. 53818.

Maintainer - The maintenance responsibility for these structures is that of the "**Wisconsin & Southern Railroad Company**" (WSOR). The **Roadmaster** for the railroad is **Keith Melichar** (608) 757-3232.

The protocol for maintenance is as follows: The respective Townships shall notify the Railroad of the maintenance and repairs needed by sending a copy of the inspection reports to the Roadmaster. A copy of the inspection reports shall also be sent to the Bureau of Railroads and Harbors. In order to ensure that action is being taken on the recommended work, Walworth County should monitor the situation and be contacted by the railroad when repairs or other work is completed.

Since these structures are local bridges, the Walworth County Highway Commissioner shall review the reports and when there are significant changes in the condition of any bridge which might affect the load rating of the bridge, the County shall notify the Maintaining authority that load ratings shall be done. WRRTC shall be responsible for providing load ratings and any recommendations for load posting that may be required. Load rating computations and requirements for load posting shall be provided to the County Highway Commissioner.

The County Highway Commissioner shall also be aware of bridge conditions. If at anytime something needs attention, particularly on the deck or above the deck, such as the railings; the county shall contact the Roadmaster directly at the earliest time.

Inspections - Bridge inspections shall be provided by **WRRTC** at intervals not to exceed 24 months.

Inspection report forms will be provided to the County by the Department of Transportation for distribution to the bridge owners.

Inspection reports are to be sent to the County Highway Commissioner upon completion of the report.

A copy of each bridge inspection report shall also be sent to the WSOR Roadmaster and to the Bureau of Railroads and Harbors. Recommended repairs or maintenance items shall be clearly marked on the report forms.

TOWNSHIP OF SHARON

OFFICE OF TOWN CLERK

SHARON, WISCONSIN

October 3, 2006

TO: Ben Meighan , WSOR Supt. of Maintenance
FROM: Ed Vander Veen, Chairman Town of Sharon (262) 736-4826
meveen@elknet.net

The railroad crossing bridge on Peters Road in the Town of Sharon, Walworth County is in hazardous condition and needs immediate repair. Westbrook Engineering is sending you a copy of their recent inspection to work from.

We would appreciate your prompt attention to this matter. Thank you.

Cc: Bill Gardiner



619 East Hoxie Street | P.O. Box 429 | Spring Green, WI 53588
P: (608) 588-7866 | F: (608) 588-7954 | www.westbrookeng.com

September 12, 2006

Town of Sharon
N1097 Bollinger Road
Sharon, WI 53585

Attn: Edward Vander Veen
Chairman

RE: Peters Road Bridge over Railroad
P-64-38
Walworth County

Dear Mr. Vander Veen:

Westbrook Associated Engineers, Inc. currently serves as the Bridge Program Manager for Walworth County. Westbrook also provides bridge inspection services for Walworth County and the associated municipalities within Walworth County.

It has been brought to Westbrook's attention by Walworth County and the most recent bridge inspection that the Town of Sharon would like to investigate possible actions on the Peters Road Bridge (P-64-38) to replace the deficient railing. It appears to have been noted by the sheriffs office as being unsafe.

The bridge is currently a five-span, timber bridge with an overall length of 132 feet and a width of 25 feet. The bridge was constructed in 1939. There is approximately 2-inches of asphalt on the top of the timber deck. The recent bridge inspection indicates that the asphalt wearing surface is in poor condition with potholes and cracks. Some of the timber bracing is split and deteriorated over time. The timber railing is no longer functioning as a safety barrier and needs replacement. Timber piling near the wings has rotted. This is normal deterioration of timber elements over time and should not cause great alarm, but should be monitored by the bridge inspection cycle every two years.

The Wisconsin Department of Transportation offers programs that provide aid to counties and townships for rehabilitation and replacement of bridges. The Local Bridge Improvement Assistance Program helps rehabilitate and replace, on a cost-shared basis, the most seriously deficient existing local bridges on Wisconsin's local highway systems. Counties, cities, villages, and towns are eligible for rehabilitation funding on bridges with sufficiency ratings less than 80, and replacement funding on bridges with sufficiency ratings less than 50. The Peters Road Bridge currently has a sufficiency rating of 66.2, making it eligible for rehabilitation funds and not replacement funds at this time. The future inspections could provide data that may lower the sufficiency rating below 50, possibly making this bridge eligible for replacement funds in the future.

The option of rehabilitating this bridge will need to take into account the replacement of the timber railing and possible replacement of the asphalt wearing surface and some replacement of timber elements. Once federally funded rehabilitation dollars are spent on the bridge, no funding can be received for this bridge for the next 10 years. The town also has the option to use it's own funds to replace the rail if they so chose.

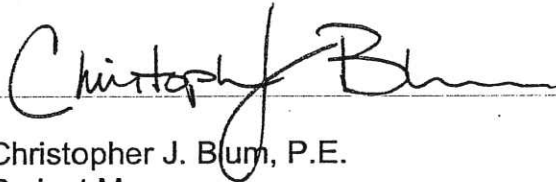
Westbrook Associated Engineers, Inc. would be happy to discuss with the town possible options for the Peters Road Bridge. Westbrook has designed numerous structures throughout Wisconsin and is a leading bridge design firm.

The Town of Sharon's can also replace the railing with local funds and then apply for bridge replacement funds once the sufficiency rating drops below 50 for this bridge. Westbrook can provide the town assistance in completing the necessary applications for funding from WisDOT.

If you require further assistance in determining the necessary steps that the town should proceed with on Peters Road, please do not hesitate to give me a call. I would happy to come and explain your options. I can be reached at (608) 588-7866. Thank you.

WESRBROOK ASSOCIATED ENGINEERS, INC.

Sincerely,

A handwritten signature in black ink, appearing to read "Christopher J. Bum". The signature is written in a cursive style and is positioned above a horizontal line.

Christopher J. Bum, P.E.
Project Manager

Cc: Mark Mullikin, Walworth County Public Works Superintendent
Encl

Notes for Town of Sharon Bridge

Contacts:

Town of Sharon Chairman- Richard Brandl – 1-608-774-5390

WI Railroad Commissioner- Jeff Plale

DOT- Division of Rails and Harbors- Greg Baer

WI Southern Railroad- Ken Lucht- 1-414-750-6402

2012
Sept. 17th the Kedzie office was contacted by Rob Radzwilowicz (Town of Sharon Supervisor) regarding the Bridge on Peters Rd. The guard rails are falling apart and this is a hazard. The bridge goes over the railroad tracks.

It is the understanding the bridge and land around the bridge is owned by the WI River Rail transit Commission and it is leased by WI Southern railroad.

It is also our understanding that Jeff Plale has been out to look at the bridge and it is need of repair. It needs new rails. In October Jeff spoke to the DOT and railroad to get it fixed. They were told he has the authority to close the bridge.

8/8/2013

BRIEFING

Bridge on Peters Road in the Town of Sharon, WI (Walworth County)

OWNERSHIP

The owner is the **Wisconsin River Rail Transit Commission (WRRTC)**. WRRTC is a public body composed of Crawford, Grant, Iowa, Dane, Sauk, Rock, Walworth and Waukesha counties.

MAINTAINER

The maintenance responsibility for this structure is that of the **Wisconsin & Southern Railroad, LLC (WSOR)**.

The protocol for maintenance is as follows: The respective Township (Town of Sharon) shall notify the Railroad of the maintenance and repairs needed by sending a copy of the inspection reports to the Roadmaster. A copy of the inspection reports shall also be sent to the Wisconsin Department of Transportation's (WisDOT) Railroads and Harbors section. In order to ensure that action is being taken on the recommended work, the County (Walworth County) should monitor the situation and should be contacted by the Railroad when repairs or other work are completed.

Since this structure is a local bridge, the Walworth County Highway Commissioner shall review the reports and when there are significant changes in the condition of the bridge, which might affect the load rating of the bridge, the County shall notify the *Maintaining authority (WSOR)* that load ratings shall be done. WRRTC shall be responsible for providing load ratings and any recommendations for load posting that may be required. Load rating computations and requirements for load posting shall be provided to the County Highway Commissioner.

The County Highway Commissioner shall also be aware of bridge conditions. If at any time something needs attention, particularly on the deck or above the deck, such as the railings, the county shall contact the Roadmaster directly at the earliest time.

INSPECTIONS

Bridge inspections shall be provided by **WRRTC** at intervals not to exceed 24 months. Inspection report forms will be provided to the County by WisDOT for distribution to the bridge owners.

Inspection reports are to be sent to the County Highway Commissioner upon completion of the report. A copy of each bridge inspection report shall also be sent to the WSOR Roadmaster and to WisDOT's Railroads and Harbors section. Recommended repairs or maintenance items shall be clearly marked on the report forms.

RATING

Per the Bridge Inspection Report (completed in August 2012), the bridge on Peters Road in the Town of Sharon is rated at "5", which is *fair* condition.

NOTES

Per the request of Representative Amy Loudenbeck, WisDOT's Secretary's Office (Nate Yahn, WisDOT Legislative Advisor) asked staff (SE Region) to look into the aforementioned bridge in the Town of Sharon and to contact the local entities who have jurisdictional control of this particular bridge structure.

WisDOT's SE Region staff contacted Walworth County in July to notify them that there have been concerns expressed by local citizens and Town officials about the condition of the bridge on Peters Road, specifically the bridge railing, and that those concerns were communicated with the representative.

In addition, SE Region staff met directly with Kevin Brunner, Walworth County Highway Commissioner, to discuss these concerns. Mr. Brunner mentioned that he is aware of the issues with the bridge and specifically mentioned the condition of the bridge railing. The commissioner said that he will be contacting the Railroad Roadmaster to see if he can persuade them to take some action, and that he will let Region staff know the status of those discussions. Upon hearing of a status update(s), Region staff will inform Nate Yahn of the information, which will then be shared with Representative Loudenbeck.

8/8/2013

BRIDGE INSPECTION REPORT
 Wisconsin Dept. of Transportation
 DT2007 2003 s.84.17 Wis. Stats. Type = ROUTINE INSPECTION

page 1

Inventory Data

Feature On: PETERS RD		Maintainer: COUNTY		Structure No: P-64-038	
Feature Under: CMSTPP RR		Sect/Twn/Rng: S03 T01N R15E			
Location: 4.6M N JCT STH 67		County: WALWORTH	Municipality: TOWN-SHARON (64022)		
Inv Rating: HS10	Rdwy Width (ft): 24.0	Deck Width (ft): 25.4	Existing Posting: 15-20-30 TON		
Oper Rating: HS15	Total Length (ft): 131.8	Deck Area(ft ²): 3347	ADT On: 150 Yr: 1980	ADT Under: Yr.	

Inspection Type (* = Supplemental Form Required)

	Routine Visual	Fracture Critical*	In-Depth*	UW-Dive*	UW-Surv*	UW. Probe/Visual*	Movable*
Last Insp.	08-02-12					08-16-06	
Frequency	24					24	
Recom. Freq.							
	Initial*	Damage	Interim	Load Posted	SI & A Field Review*		
Last Insp.							
Frequency	N/A			12			
Recom. Freq.	N/A				Item No. Needing Change		

Load Rating Information

Overburden	Measurement (in): 2.0	Date:	Deck Surface Type: BITUMINOUS
Section Loss	File Meas. (%):	File Insp. Date: 08-11-10	Insp. Measurement (%):
Re-rate for load capacity?	Reason:		Date Last Rated:

Expansion Joints

Location	Type	Temp:			Signing Condition			Comments
		File Insp. Date	File Insp. (in)	New Insp. (in)	Type of Marker	File	Y/N	
					Bridge Markers	Y	Y	
					Narrow Bridge	Y	Y	
					One Lane Road	N	N	
					Vertical Clearance	N	N	
					Weight Limit Post	Y	Y	Advance sign
					Other(Addl. Sign)			

Clearances(Cardinal = N or E)

	File Meas. (ft.)	File Date	New Meas. (ft.)
Min. Vertical Clearance Under (Cardinal)			
Min. Vertical Clearance Under (non-Cardinal)			
Min. Vertical Clearance On			

Structure Type

Construction/Rehabilitation History

Material	Configuration	# of Spans	Overall Length (ft)	Year	Work Performed	Plan	Shop
TIMBER	DECK GIRDER		19.0	1939	NEW STRUCTURE		
TIMBER	DECK GIRDER		19.0				
TIMBER	DECK GIRDER		17.8				
TIMBER	DECK GIRDER		25.0				
TIMBER	DECK GIRDER		12.8				

Inspection Information

Special Requirements	Y/N	Comments
Traffic Control		
Access Equipment		
Other		

Inspector Information

Team Leader Name and No. Printed: Wirth, Paul E (9532)	Team Member(s) Name(s) Printed: Josh Mitchell		
Team Leader Signature:	Inspection Date: 08-02-12	Inspection Agency: CONSULTANT (10)	
District/Local Manager and No. Printed:	District/Local Manager Signature:	Review Date:	

Element Inspection (X) Check Elements Inspected

CK	Elem./Env.	Description	Unit	Total QTY.	Quantity in Condition States				
					1	2	3	4	5
X	32 / 2	Timber Deck/AC Ovly	SF	3347			3347		
		Potholes & many transverse and longitudinal cracks in bit:sm ovly							
X	111 / 2	Timber Girder	LF	1745		1745			
X	117 / 2	Timber Stringer	LF	55		42	13		
		Listed as Timber Diag Bracing - btwn cols; most bracing split - some severe deterioration							
X	206 / 2	Timber Column	EA	42	22	13	7		
		Some fire damage at first pier from north not affecting strength. Some columns with vertical splits.							
X	216 / 2	Timber Abutment	LF	82		82			
X	235 / 2	Timber Cap	LF	223		223			
		Caps on top of columns. Some splits but good condition.							
X	322 / 2	Bituminous Approach	EA	2		2			
		Settlement and potholes on 25% of the area.							
X	332 / 2	Timb Bridge Railing	LF	262			262		
		Replace entire railing - safety hazard. Major section loss in vertical posts and horizontal timber rails. Railing not sufficient to stop or redirect vehicle. 30' vertical drop to railroad grade below.							
X	343 / 2	Crushed Aggregate Sp	EA	2			2		
		Some erosion taking place / not vegetated - no protection remaining							
X	358 / 4	Deck Cracking SmFlag	EA	1				1	
		Widespread alligator cracking; lg-longit & transv cracking							
X	401 / 2	Timber wingwall	EA	4			4		
		Piling at wings is rotting & hollow							
X	410 / 2	Curb	LF	262		262			
		Listed as Timber Curb							

General Inspection/Maintenance Notes

Timber elements are showing signs of early states of deterioration.

Replace diagonal bracing.

Replace bridge railing with crash worthy rail system.

Consider for replacement.

Maintenance Recommendations (See standard code items & numbers)

Maintenance Item:
Amount: Date(YYYY-MM-DD):
Maintenance Item comment:
Maintenance Item:
Amount: Date(MM-DD-YY):
Maintenance Item comment:

NBI Ratings

NBI	File	New	NBI	File	New
Deck	5	5	Culvert	N	N
Superstructure	5	5	Channel	N	N
Substructure	5	5	Waterway	N	N

Maintenance Item:
Amount: Date(MM-DD-YY):
Maintenance Item comment:

Town of Sharon

N1097 Bollinger Rd.

Sharon, WI 53585-9704

Phone & Fax# (262) 736-4608

March 19, 2014

MR KENNETH LUCHT
COMMUNITY DEVELOPMENT
WISCONSIN & SOUTHERN RAILROAD LLC
5300 N 33RD ST
PO BOX 90229
MILWAUKEE WI 53209

Via US mail and Email: klucht@wsorrailroad.com

WISCONSIN & SOUTHERN RAILROAD LLC
DIRECTOR OF GOVERNMENT RELATIONS
MADISON TERMINAL
1890 E JOHNSON ST
MADISON WI 53704-4745

Via US Mail only

**RE: Notice of Unsafe Bridge in the Town of Sharon, Walworth County,
Wisconsin**

Dear Friends:

I am writing to you because the Town Board for the Town of Sharon has expressed a grave concern about the safety and condition of the Peters Road Bridge structure P-64-038. In previous years, the Township has communicated with the Wisconsin & Southern Railroad Company, Walworth County, its legislators, and the State of Wisconsin Department of Transportation Railroads and Harbors concerning the deteriorating condition of the bridge. No repairs have been made. We demand that action be taken now before someone is seriously injured from an accident at that bridge site.

In January of 2002, the Township received a letter from the Wisconsin Department of Transportation stating that the Wisconsin River Rail Transit Commission owned the Peters Road Bridge and had passed on the operation and maintenance of the rail line to the Wisconsin and Southern Railroad (WSOR). In February 2002, our state representative, Neal Kedzie, notified the Township that he received a letter from WSOR President Bill Gardiner stating that WSOR was responsible for repairing and maintaining the Peters Road Bridge. This letter was followed up with a phone conference with the Township and WSOR. The outcome was for Ben Meighan, WSOR Superintendent of Maintenance, to look at alternatives for the bridge including repair, replacement or removal of the bridge.

In October of 2006, the Township sent a letter to Ben Meaghan detailing the September 2006 bridge inspection report and a report from Westbrook Engineering highlighting the hazardous condition of the Peters Road Bridge. The report noted that the timber bracing was split and the railing was no longer functioning as a safety barrier. The recommendation was to replace the deficient railing.

The bridge inspection reports for the last 25 years have indicated the need for repair of the bridge. To highlight a few of the inspection reports:

- 1989 The Walworth County highway commissioner suggested repair or replacement of the bridge.
- 1996 The inspection report suggested rehabbing the entire railing.
- 1998 The inspection noted that the piles were rotting, and there was alligator cracking on the deck. The report suggested rehabbing the entire railing.
- 2008 Deficiencies included split timber bracing, alligator cracking, pilings at the wings were rotting, and the timber elements showed signs of deterioration. The inspection noted that the railing should be replaced as it was a safety hazard and structure replacement should be considered.
- 2010 Timber elements were showing signs of deterioration. The report suggested replacing the diagonal bracing, replacing the bridge railing, and consideration of bridge replacement.

In 2013, we have discussed the bridge condition with the County, State and Railroad officials.

There needs to be positive action taken in 2014. The Peters Road Bridge is a detriment to all who travel this road. The bridge needs, at least, the railing system fixed. At the most, there needs to be a complete replacement of the bridge.

The Railroad owns the bridge as indicated by the State in 2002. The Railroad must fix the bridge railing system that does not meet today's DOT standards for crash worthiness.

Under Wis. Stats., §195.31, it is the responsibility of the railroad company to make the necessary repairs to make the bridge safe. The Township has tried to cooperate and to call your attention to this, but has been ignored.

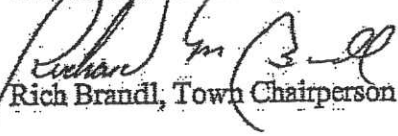
This is the final notice to you. We expect a response within 20 days from the date of this letter. If we do not hear from you, then we will file a formal petition with the Commissioner of Railroads and Harbors of the Wisconsin Department of Transportation and request an investigation and then a hearing on the safety of this bridge. We will then further request that an order be issued by the Wisconsin Office of the Commissioner of Railroads for this bridge repair. I also want to call your attention to Wis. Stats., §195.35, which would result in treble damages if someone was injured by the failure to repair the bridge.

Now is the time for action, and we demand that repairs be done to the Peters Road Bridge.

Enclosed for your benefit is a copy of the bridge inspection report.

Sincerely,

TOWN OF SHARON


Rich Brandl, Town Chairperson

pc Karen Teliszczak, Town Clerk
Neal Kedzie, Wisconsin State Senator
Amy Loudbeck Wisconsin State Representative
Nate Yahn, WisDOT Legislative Advisor
Kevin Muhs, SEWRPC Transportation Planner
Kevin Bruner, Walworth County Highway Commissioner
Frank Huntington, WisDOT Railroads & Harbors
Ben Meighan, WSOR Superintendent of Maintenance
William E. Gardner, President and CEO of WSOR
Office of the Commissioner of Railroads
Representative Paul Ryan

BRIDGE INSPECTION REPORT
 Wisconsin Dept. of Transportation
 DT2087.2003 s.84.17 Wis. Stats. Type = INTERIM INSPECTION

page 1

Inventory Data

Feature On: PETERS RD		Maintainer: COUNTY		Structure No: P-64-038	
Feature Under: CMS/FP RR		Sect/Twn/Rng: S03 T01N R15E			
Location: 4.6M N JCT STH 67		County: WALWORTH		Municipality: TOWN-SHARON (64022)	
Inv Rating: HS10	Rdwy Width (ft): 24.0	Deck Width (ft): 25.4	Existing Posting: 15-20-30 TON		
Oper Rating: HS15	Total Length (ft): 131.8	Deck Area(sq): 334.7	ADT On: 150 Yr: 1980	ADT Under: Yr:	

Inspection Type (* = Supplemental Form Required)

	Routine Visual	Fracture Critical	In-Depth*	UW-Dive*	UW-Surv*	UW-Probe/Visual*	Movable*
Last Insp.	08-02-12						
Frequency	24						
Recom. Freq.							
	Initial*	Damage	Interim	Load Posted	SIA Review*		
Last Insp.			08-21-13	08-21-13			
Frequency	N/A		00	24		48	
Recom. Freq.	N/A				Item No. Needing Change		

Load Rating Information

Overburden	Measurement (in): 2.0	Date:	Deck Surface Type: BITUMINOUS
Section Loss	File Meas. (%):	File Insp. Date: 08-21-13	Insp. Measurement (%):
Re-rate for load capacity?	Reason:		Date Last Rated:

Expansion Joints

Location	Type	Temp:		Signing Condition				Comments
		File Insp. Date	File Insp. (in)	New Insp. (in)	Type of Marker	File	Y/N	
					Bridge Markers	Y	Y	
					Narrow Bridge	Y	Y	
					One Lane Road	N	N	
					Vertical Clearance	N	N	
					Weight Limit Post	Y	Y	Advance sign
					Other(Add. Sign)			

Clearances(Cardinal = N or E)

	File Meas. (ft)	File Date	New Meas. (ft)
Min. Vertical Clearance Under (Cardinal)			
Min. Vertical Clearance Under (non-Cardinal)			
Min. Vertical Clearance On			

Structure Type

Construction/Rehabilitation History

Material	Configuration	# of Spans	Overall Length (ft)	Year	Work Performed	Plan	Shop
TIMBER	DECK GIRDER		19.0	1939	NEW STRUCTURE		
TIMBER	DECK GIRDER		19.0				
TIMBER	DECK GIRDER		17.8				
TIMBER	DECK GIRDER		25.0				
TIMBER	DECK GIRDER		12.8				

Inspection Information

Special Requirements	Y/N	Comments
Traffic Control		
Access Equipment		
Other		

Inspector Information

Team Leader Name and No. Printed: Wirth, Paul E (9532)	Team Member(s) Name(s) Printed: Josh Mitchell	
Team Leader Signature:	Inspection Date: 08-21-13	Inspection Agency: CONSULTANT (10)
District/Local Manager and No. Printed:	District/Local Manager Signature:	Review Date:

Element Inspection (X) Check Elements Inspected					Quantity in Condition States				
CK	Elem./Env.	Description	Unit	Total QTY.	1	2	3	4	5
X	32 / 2	Timber Deck/AC Ovly	SF	3347			3347		
		Potholes & many transverse and longitudinal cracks in bitum ovly							
X	111 / 2	Timber Girder	LF	1745		1745			
		Some minor splitting.							
X	117 / 2	Timber Stringer	LF	55	13	42			
		Listed as Timber Diag Bracing - btwn cols, Bracing has been replaced.							
X	206 / 2	Timber Column	EA	42	22	20			
		Some fire damage at first pier from north not affecting strength. Some columns with vertical splits.							
X	216 / 2	Timber Abutment	LF	82		82			
		Some minor splitting.							
X	235 / 2	Timber Cap	LF	223		223			
		Caps on top of columns. Some splits but good condition.							
X	322 / 2	Bituminous Approach	EA	1		1			
		S. end settlement and potholes on 25% of the area.							
X	323 / 2	Gravel Approach	EA	1	1				
		North end.							
X	332 / 2	Timb Bridge Railing	LF	262			262		
		Replace entire railing - safety hazard. Major section loss in vertical posts. Railing not sufficient to stop or redirect vehicle. 30' vertical drop to railroad grade below. Major section loss 4 & 5 top horizontal from N. on W. rail. 3rd btm horizontal from S. 3rd btm horiz. from N. connections failed W. rail. 3rd top horiz. connection failed from N. & 1st btm horiz. from S. failed connection R. rail.							
X	343 / 2	Crushed Aggregate Sp	EA	2			2		
		Some erosion taking place / not vegetated - no protection remaining.							
X	358 / 4	Deck Cracking SmFlag	EA	1				1	
		Widespread alligator cracking; lg longit & transv cracking							
X	401 / 2	Timber wingwall	EA	4			4		
		Piling at wings is rotting & hollow							
X	410 / 2	Curb	LF	262		262			
		Timber Curb minor splitting and cracking.							

General Inspection/Maintenance Notes

Timber elements are showing signs of early states of deterioration.

Replace bridge railing with crash worthy rail system.

Consider for replacement.

Maintenance Recommendations (See standard code items & numbers)

Maintenance Item: _____
 Amount: _____ Date(YYYY-MM-DD): _____
 Maintenance item comment: _____

Maintenance Item: _____
 Amount: _____ Date(MM-DD-YY): _____
 Maintenance item comment: _____

NBI Ratings

NBI	File	New	NBI	File	New
Deck	5	5	Culvert	N	N
Superstructure	5	5	Channel	N	N
Substructure	5	5	Waterway	N	N

Maintenance Item: _____
 Amount: _____ Date(MM-DD-YY): _____
 Maintenance item comment: _____

palities in interest. In fixing such proportion, the office may order such cost and expense so apportioned to be paid by the parties against which the apportionment shall be made.

(3) **RESTORATION OF SPUR TRACKS.** Whenever the office shall have ordered a separation of the grade of a railway from the grade of a street or highway, it may, if safe and practicable and if a necessity exists therefor, order the alteration, restoration and connection of any track serving an industry. Demand for such restoration shall be in writing and filed with the office within 90 days after the date of the order for the separation of grades, and any such track for which no such demand shall have been made shall be deemed abandoned. If the office shall order the alteration, restoration and connection of any such track, it shall by its order apportion the cost thereof between the owner of the industry served and the railway company, in such proportion as to the office may seem just and equitable; and the office shall in its order prescribe the terms and conditions for securing the payment of such cost.

(4) **GRADE SEPARATION IN MILWAUKEE COUNTY.** The office may upon petition of any town, city or village, or upon its own motion, when the interests of the public demand it and it is found practicable so to do, establish the grade of the tracks of any railroad, or of all the railroads throughout any county having a population of 500,000 or more, or any part thereof, and the grades of the streets or highways, or any of them, where they cross such railroad track or tracks, in anticipation of the future separation of grades of the railroad tracks from the grades of such streets or highways. The office, before making any such order, shall mail notice to the railroad company or companies affected, the owners or occupants of any building abutting on that part of the railroad the grade of which is to be established, all 1st class cities in the county, and if the grades to be established are outside the 1st class city, the towns, cities or villages in which such grades are to be established, of the filing of such petition or that the office contemplates establishing such grades, and fixing a time at which the 1st class cities and such other towns, cities or villages and the railroad company or companies affected thereby and any other person or corporation interested therein may be heard. The grades so established under this subsection shall be described by reference to a base or datum line to be established by the office, from which all elevations and the height of all grades shall be measured, and the grades so established shall be such that when brought to the established grade the railroad tracks will cross the streets and highways above or below the same. Such order shall not necessarily require a present change in grade but the office may at any time order the railroad track or tracks and the street and highways brought to the grade established or any street or highways closed by the order, in accordance with sub. (1), and may, at the time of making the order, apportion the cost of separating the grades as provided in sub. (2).

(5) **ELIMINATION OF GRADE CROSSINGS, COSTS.** Upon petition of the department, or of the common council or board of any city, village, town, or county, alleging that one or more of them have undertaken or propose to undertake to relocate or improve an existing highway or to construct a new highway in such manner as to eliminate a highway grade crossing with any railroad or so as to permanently divert a material portion of the highway traffic from a highway grade crossing with any railroad, the office shall issue notice of investigation and hearing, as provided in s. 195.04. If upon such hearing the office finds that the public safety will be promoted by the highway relocation, improvement, or new construction, the office shall order the old crossings closed and new crossings opened as are deemed necessary for public safety. The order shall require the railroad company or companies to pay to the interested municipality or municipalities such sum as the office finds to be an equitable portion of the cost of the highway relocation, improvement, or new construction, if the work is performed by the municipalities; or to the secretary of administration if the work is performed by the state; or to the proper county treasurer if the work is performed by the county. The sum shall be added to the joint fund available for the improvement and may be expended in like manner as the other portions of the fund.

(6) **VIEW AT CROSSINGS; TREES AND BRUSH NEAR CROSSINGS; FORFEITURE.** Every railroad shall keep its right-of-way clear of brush or trees for a distance of not less than 330 feet in each direction from the center of its intersection at grade with any public highway, and for such further distance as is necessary to provide an adequate view of approaching trains, from the highway. Every municipality shall keep the public highways within its jurisdiction clear of brush and shall adequately trim all trees within 330 feet of the center of any railroad highway grade crossing. Every person or corporation owning or occupying any land adjacent to any railroad highway grade crossing shall keep all brush cut and adequately trim all trees on the land within the triangles bounded on 2 sides by the railway and the highway, and on the 3rd side by a line connecting points on the center lines of the railway and the highway, 330 feet from the intersection of the center lines. The office, upon its own motion, or upon any complaint to the effect that any work required by this subsection has not been performed, after due notice and hearing, may order the corporation, municipality or person at fault to perform the work; provided, however, that if the physical conditions at any crossing are such that the performance of the required work will not materially improve the view for highway traffic, or, if unreasonable loss would be caused thereby, the office may excuse the party in interest from performing the same. The office may also order the cutting of brush and the trimming of trees at private farm crossings as may be necessary and reasonable. If any person shall violate any provision of this section, or shall fail, neglect or refuse to obey any order made by the office under this section, or any judgment or decree made by any court upon such an order, for every such violation, failure or refusal such person shall forfeit not less than \$25 nor more than \$150.

(7) **STRUCTURE REQUIREMENTS.** Whenever the office shall order the construction or reconstruction of a crossing not at grade, it may direct that the structure required shall be of such character and constructed of such materials as it shall deem appropriate to the situation and necessary for the public interest.

(8) **ACQUISITION OF LANDS.** Any lands needed to carry out the provisions of this section may be acquired.

History: 1977 c. 29 ss. 1654 (8) (b), 1656 (43); 1981 c. 347 s. 80 (1); 1993 a. 16, 123; 2003 a. 33.

A landowner incurs no liability to highway users who are injured as result of the landowner's violation of sub. (6). *Wells v. Chicago & North Western Transportation Co.* 98 Wis. 2d 328, 296 N.W.2d 559 (1980).

195.30 Railroad crossings; grade separation, safety devices. (1) Upon a petition by the common council of any city, or the board of any village, town or county within which a railroad crosses another railroad at grade, or by any such railroad, that public safety requires an alteration in the crossing or the installation of protective appliances, the office shall give notice to the parties in interest, and proceed to investigate the same and may order a hearing on the matter. The office shall determine what alteration in such crossing, if any, shall be made, and by whom made and maintained, or what protective appliances shall be installed, operated and maintained at the crossing and by whom installed, operated and maintained. The office shall fix the proportion of the cost and expense of such change in grade and maintenance of the crossing or of the installation, operation and maintenance of the safety appliance which shall be paid by the railroad companies, respectively.

(2) The provisions of this section shall apply to drawbridges, junctions and other fouling points on railroads.

History: 1981 c. 347 s. 80 (1); 1993 a. 16, 123.

195.307 Snowmobile rail crossings. Sections 195.28, 195.285, 195.286, and 195.29 do not apply to snowmobile rail crossings for which a permit is issued under s. 350.138.

History: 2001 a. 14.

195.31 Bridges made safe. Whenever a complaint is lodged with the office by the common council of any city, the village board of any village, a member of a town board, or a supervi-

sor of highways, or by 5 or more electors and taxpayers in any town, or 5 or more electors of the county in which such bridge is located, and who are users of such bridge or railway, to the effect that a bridge erected over a stream intersecting a public highway or highways upon which a railway is constructed and operated, is unsafe and dangerous to travelers over such highway or highways or bridge or railroad, and that public safety requires the alteration, the repair or reconstruction of such bridge, or the substitution of another bridge therefor, it shall be the duty of the office to give notice to the party or parties in interest, other than the petitioners, of the filing of such complaint, and to furnish a copy of the complaint to the party or parties in interest other than the petitioners, and to order a hearing thereon, in the manner provided for hearings in ss. 195.04 to 195.043. The office may proceed in a similar manner in the absence of a petition when, in the opinion of the office, public safety requires the alteration, repair or reconstruction of a bridge or the substitution of another bridge for the bridge in question. After the hearing, the office shall determine what alteration or repair or reconstruction of such bridge, and the approaches thereto, shall be made, or if it shall determine that public safety requires the substitution of a new bridge, it shall determine the character, manner of construction and location of such bridge and the approaches thereto. The office shall fix the proportion of the cost and expense of such alteration, repair, reconstruction or substitution of a new bridge, including the damage to any person whose land is taken, and the special damage which the owner of any land adjoining the approaches to said bridge shall sustain by reason of the alteration, repair, reconstruction or substitution of a new bridge, to be paid by the railroad company and the city, village or town in interest.

History: 1977 c. 29 ss. 1654 (9) (e), 1656 (43); 1981 c. 347 s. 80 (1); 1993 a. 16, 123.

195.32 Safety gates on drawbridges. Whenever a complaint is filed with the office to the effect that any drawbridge is not equipped with gates or other safety devices, the office may notify the proper party or parties in interest of the complaint, and may proceed to investigate the complaint and to hold a hearing on the matter in the manner provided for hearings in ss. 195.04 to 195.043. If after the investigation the office determines that public safety requires the erection and maintenance of gates or other safety devices at the points mentioned in the complaint, it may order the county, city, village, town, corporation or person whose duty it is to maintain such bridge to erect and maintain at such points such gates or other safety devices as the office prescribes. The office may conduct the investigations, hold the hearings and make the orders provided for in this section upon its own motion in the same manner and with the same effect as though a complaint were filed.

History: 1977 c. 29 ss. 1654 (9) (e), 1656 (43); 1981 c. 347 s. 80 (1); 1993 a. 16, 123.

195.34 Reports of accidents, investigation. Every water carrier shall report to the office all accidents resulting in injury to persons arising from its operation. The office may issue rules concerning the reporting of accidents by water carriers and may also, if public interests require, cause an investigation of any accident. Every railroad shall submit to the office a copy of any accident or injury report provided by the railroad to the applicable federal authority for all collisions, derailments or other accidents resulting in injury to persons, equipment, or roadway arising from its operation. The office may issue rules concerning the submission of copies of federal reports under this section and may also, to the extent permitted by federal law, participate in any accident investigation.

History: 1981 c. 347 s. 80 (1); 1993 a. 16, 123; 2005 a. 179.

Cross Reference: See also ss. RR 2.12 and 2.13, Wis. adm. code.

195.35 Treble damages. (1) If any director, officer, employee or agent of a railroad or water carrier, in the course of the discharge of his or her duties, willfully, wantonly or recklessly causes to be done or permits to be done any matter, act or thing in

this chapter prohibited or declared to be unlawful, or willfully, wantonly or recklessly fails to do any act, matter or thing required to be done by this chapter, the railroad or water carrier shall be liable to the person injured thereby in treble the amount of damages sustained in consequence of the violation. No recovery as in this section provided shall affect a recovery by the state of the penalty prescribed for such violation.

(2) The burden of proof in an action under sub. (1) rests with the person injured to prove the case by clear and convincing evidence.

History: 1979 c. 89; 1991 a. 39; 2005 a. 179.

A treble damage claim is no longer a separate cause of action because gross negligence is to be compared like all other negligence. *Kania v. Chicago & North Western Railway Co.* 57 Wis. 2d 761, 204 N.W.2d 681 (1973).

195.36 General penalty upon railroads and water carriers. If any railroad or water carrier shall violate any provision of this chapter, or shall do any act herein prohibited, or shall fail or refuse to perform any duty enjoined upon it, for which a penalty has not been provided, or shall fail, neglect or refuse to obey any lawful requirement or order made by the office, or any judgment or decree made by any court upon its application, for every such violation, failure or refusal in respect to any matter prescribed by this chapter such railroad or water carrier shall forfeit not less than \$100 nor more than \$10,000. The act, omission or failure of any officer, agent or other person employed by any railroad or water carrier, acting within the scope of his or her employment, shall be deemed to be the act, omission or failure of such railroad or water carrier.

History: 1981 c. 347 s. 80 (1); 1993 a. 16, 123; 2005 a. 179.

195.37 Water carrier freight charges; collection, refund. (1) **COMPLAINTS, INVESTIGATIONS, HEARINGS, FINDINGS, REFUND.** The office may investigate the complaint of any person aggrieved that the charge exacted by a water carrier for the transportation of property between points in this state, or for any service in connection with transportation of property, or that the charge exacted by a water carrier for the storage of such property, or that any charge exacted by a water carrier is erroneous, illegal, unusual or exorbitant and shall set the complaint for hearing as provided in s. 195.04 (2) to (4). If the office finds that the rate or charge exacted by a water carrier is erroneous, illegal, unusual or exorbitant, it shall find what would have been a reasonable rate or charge for such service. If the rate or charge so found is less than the charge exacted, the carrier shall refund the excess.

(2) **ACTIONS; FINDINGS AS EVIDENCE, DEFENSES.** In an action to recover the amount of such excess charge, the findings of the office shall be prima facie evidence of the truth of the facts found by it, and no carrier shall be permitted to avail itself of the defense that the shipment involved was in fact made on the published tariff rate in force at the time such shipment was made, but no carrier making a refund upon the order of the office or the judgment of a court shall be liable for any penalty or subject to any prosecution on account of making such refund.

(3) **LIMITATION FOR FILING CLAIM.** All complaints provided for in sub. (1), except those for straight overcharges, shall be filed with the office within 2 years after delivery of the shipment of property at destination, subject to sub. (6).

(4) **STRAIGHT OVERCHARGES, LIMITATION OF ACTIONS, EXCEPTION.** (a) In this subsection, "straight overcharge" means a charge in excess of those applicable under the lawful tariffs on file with the office.

(b) For recovery of a straight overcharge, neither this section nor s. 195.38 shall be considered exclusive remedies. Complaints for the recovery of a straight overcharge may be filed or actions begun within 3 years from the delivery of the shipment of property at destination, and not after, except that if a claim for the overcharge has been presented in writing to the carrier within the 3-year period, the period shall be extended to include 6 months from the time that notice in writing is given by the carrier to the claimant of disallowance of the claim or any part of the claim.

BORGELT, POWELL,
PETERSON & FRAUEN S.C.



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EST. 1881

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Brian D. Baird
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Email: bbaird@borgelt.com
Website: www.borgelt.com

April 9, 2014

Rich Brandl, Chairman
Town of Sharon
N1097 Bollinger Rd.
Sharon, WI 53585

Kevin Brunner, Commissioner
Walworth County Highway Dept.
W4097 County Road NN
Elkhorn, Wisconsin 53121

Re: Peters Road Bridge Structure Number P-64-038

Dear Sirs:

This is in reference to your March 19, 2014 correspondence during which you described your concern about the condition of the Peters Road Bridge. As you know, we have expressed our concern to you, as well, and it has been our understanding that Walworth County officials would be closing this bridge permanently and would work collaboratively with the Town of Sharon and Wisconsin & Southern Railroad ("WSOR") to secure the appropriate State and other governmental funding in order to completely replace this structure.

As you may know, the WSOR has had numerous conversations/meetings with town and county officials over the course of the past year with regards to the current condition of the Peters Road Bridge. Much of our conversations have been centered around past inspections of the bridge and the need to further inspect this bridge from a structural standpoint. In fact, on September 5, 2013 WSOR requested to be present when the county performed its next inspection at Peters Road.

In your letter, you acknowledge awareness that the Peters Road Bridge is owned publicly by the Wisconsin Department of Transportation and the Wisconsin River Rail Transit Commission. There may be some confusion regarding the entity ultimately responsible for capital improvements, major reconstruction, and the replacement of this bridge, should such steps become necessary. In your recent correspondence, you go on to assert that the WSOR owns the bridge as well, and this is not correct. While the WSOR's Operating Agreement with the State of Wisconsin requires certain simple maintenance responsibilities, no contractual liability exists for the major reconstruction

Rich Brandl and Kevin Brunner
April 9, 2014
Page 2

~~to say nothing of replacement of this bridge structure. Again, the bridge is owned jointly by the State of Wisconsin and the Wisconsin River Rail Transit Commission.~~

We would also call your attention to the November 20, 2013 conference call participated in by representatives of the WSOR, as well as Town and County Highway officials to discuss a joint strategy for addressing safety concerns related to the Peters Road Bridge. During this conference, the parties discussed the findings of both WSOR retained engineers and Wisconsin Department of Transportation structural engineers, concluding that the Peters Road Bridge structure was not capable of having attached to it a crash worthy railing system meeting modern standards. All parties to this conference concluded that immediate closure was the best course and the County Highway Commissioner offered that he would be taking steps to close the bridge until further notice. It was anticipated and agreed by all participating, that the WSOR would work with the Town of Sharon and with the County of Walworth in approaching State government for funds sufficient to rebuild or fully replace the Peters Road Bridge. To our knowledge, County officials have not followed through with this action which, however is still appropriate in our view under the circumstances.

~~For the safety of the motoring public and for your community, we urge you to immediately close the Peters Road Bridge and to pursue its replacement by approaching the relevant State agencies. We will be happy to work with you in this regard and to the extent that legal issues related to this bridge replacement are in question, I would look forward, as one of the legal counsel representing the Wisconsin & Southern Railroad to be placed in contact with the responsible Town or County legal representative.~~

We look forward to hearing from you with regard to ways in which we can work jointly to enhance the safety of your community.

Sincerely,

BORGELT, POWELL, PETERSON & FRAUEN, S.C



Brian D. Baird

BDB/smd

WALWORTH COUNTY



WISCONSIN

June 11, 2014

Public Works Department

Kevin Brunner
Director of Central Services

Larry Price
Highway Operations Manager

John Miller
Facilities Manager

Joseph Kroll, P.E.
County Engineer

Peggy Watson
Business Services Manager

Ms. Mary Penn, Administrator
Wisconsin River Rail Transit Commission
20 S. Court Street
Post Office Box 262
Platteville, WI 53818

Mr. Ken Lucht
Director of Government Relations
Wisconsin and Southern Railroad LLC
1890 E. Johnson Street
Madison, WI 53704-4745

Mr. Rich Brandl, Chairman
Town of Sharon
N1097 Bollinger Road
Sharon, WI 53585

Re: Recommended Closure of Peters Road Bridge P-64-0038

Dear Ms. Penn and Messrs. Lucht and Brandl:

As the representatives of the owner/maintainer of the Peters Road Bridge (Wisconsin River Rail Transit Commission/Wisconsin & Southern Railroad Company) and the owner of Peters Road (Town of Sharon), you both have a vested interest in maintaining the safety of this bridge structure for the motoring public.

Based upon recent engineering inspections of the Peters Road Bridge, particularly that of the owner's engineer who has determined that it is in a failed state, it is readily apparent to me as Walworth County Highway Commissioner that this bridge is no longer safe for vehicular traffic and therefore should be closed as soon as possible. There is no engineering solution that I am aware of that will make the bridge railings crashworthy; there are also reported serious section loss of the supporting mud blocks and a majority of the bracing fasteners are failing as well.

On behalf of Walworth County and other interested parties, I respectfully request that you jointly take prompt action to close the Peters Road Bridge. Since this is a unique situation in which the bridge is on a town road but is owned by the Wisconsin River Rail Transit Commission and

W4097 County Road NN
Elkhorn, WI 53121
262.741.3114 tel

262.741.3117 fax (Operations)
262.741.3195 fax
(Business Office)

maintained by the Wisconsin & Southern Railroad, I believe that all three parties have a responsibility for the bridge closure.

I further request that the parties develop a plan of action for future bridge replacement.

I offer the services of the Walworth County Public Works Department in assisting the parties with the bridge closure and in planning a future bridge replacement.

If you have any questions, please feel free to contact me.

Sincerely,



Kevin M. Brunner, Central Services/Public Works Director
County Highway Commissioner

KMB/bbb

C: Wisconsin Commissioner of Railroads Jeffrey Plale
Wisconsin State Representative Amy Loudenberg ✓
WisDOT Supervisor of Railroads and Harbors L. Frank
Huntington
WisDOT SE Bridge Maintenance Manager John Bolka
County Administrator David Bretl
County Highway Operations Manager Larry Price
County Engineer Joseph Kroll

July 14, 2014

To Whom It May Concern:

This letter is to inform you that the bridge on Peters Road over the Wisconsin Southern Railroad tracks will be closing on Thursday, July 24, 2014. No foot or vehicle traffic will be allowed on the bridge. The bridge has been declared unsafe by Walworth County and the State of Wisconsin Railroad Commissioner. It will remain closed until funding is obtained and a new bridge can be constructed.

The Town Board of Sharon has been working diligently to try and get the bridge fixed. This has been ongoing for the past 20 years! We have redoubled our efforts this year, to no avail. The Railroad claims that it does not own the bridge, thus won't repair or replace it or even make it a grade crossing.

We will continue to do all we can to secure funding and work with the Railroad to re-open the bridge. We know this will be an inconvenience for many people. We wish that there were a better solution than closing the bridge, but at this point, there is not.

Please pass this letter along to anyone in your organization who may be affected by the bridge closing. If you have any questions, please feel free to contact us.

Thank you,

Town Board of Sharon
Rich Brandl, Chairman

CC:

Walworth County
Railroad Commissioner
Ken Lucht
Mary Penn
Amy Loudenberg, State Rep.
Jeff Roethe, Town Attorney
Sharon Community School
Delavan-Darien School
Big Foot High School

Walworth Grade School
Dousman Transport Company
Sharon Postmaster
Darien Postmaster
Sharon Reporter
Sharon Fire & Rescue
Darien Fire & Rescue
Town of Darien



July 10, 2014

Mr. Rich Brandl, Chairman
Town of Sharon
N1097 Bollinger Road
Sharon, WI 53585

Public Works Department

Kevin Brunner
Director of Central Services

Larry Price
Highway Operations Manager

John Miller
Facilities Manager

Joseph Kroll, P.E.
County Engineer

Peggy Watson
Business Services Manager

Re: Closure of Peters Road Bridge P-64-0038

Dear Mr. Brandl:

Thank you and the Town of Sharon for taking the initiative to close the Peters Road bridge. I know that was a difficult decision, but it is the right one, given the bridge's current condition and our collective need to protect the safety of our motoring public.

My understanding is that the Town plans to officially close the bridge on July 25, although I request that you move that date up one day, to July 24, so that Walworth County Public Works can assist the Town with the closure. As you know, during the summer months our highway division crews work Monday through Thursday, 6:00 a.m. to 4:00 p.m., and consequently, we would not be available to help out on Friday the 25th.

As I have discussed with you, the County will provide and install concrete barriers at the bridge approaches at no cost to the Town; however, the cost of labor and equipment to place those barriers has to be charged. Unfortunately, the County does not have message boards to lend to the Town for the bridge closure. If additional signage and/or barriers for the closure and road detour might be needed, please contact Highway Operations Manager Larry Price, at 262-949-7863, and he will work with you to meet your needs.

If you have any questions, please feel free to contact me at 262-741-3104.

Sincerely,

Kevin M. Brunner, Central Services/Public Works Director
County Highway Commissioner

KMB/bbb

C: Wisconsin Commissioner of Railroads Jeffrey Plale; Wisconsin State Representative Amy Loudenberg; WisDOT SE Bridge Maintenance Manager John Bolka; County Administrator David Bretl; County Highway Operations Manager Larry Price; County Engineer Joseph Kroll; Ken Lucht, Wisconsin & Southern Railroad

W4097 County Road NN
Elkhorn, WI 53121
262.741.3114 tel

262.741.3117 fax (Operations)
262.741.3195 fax
(Business Office)



OFFICE OF THE
COMMISSIONER OF RAILROADS
STATE OF WISCONSIN

JEFF PLALE, COMMISSIONER

610 N. Whitney Way
P.O. Box 7854
Madison, WI 53707-7854
Tel: (608) 266-0276
Fax: (608) 261-8220
<http://ocr.wi.gov>

June 20, 2014

Ken Lucht
Director of Governmental Relations
Wisconsin & Southern Railroad LLC
1890 E. Johnson Street
Madison, WI 53704-4745

Mary Penn
Wisconsin River Rail Transit Commission
20 S. Court Street
PO Box 262
Platteville, WI 53818

Rich Brandl, Chairman
Town of Sharon
N1097 Bollinger Road
Sharon, WI 53585

Re: Peters Road bridge

Dear Ms. Penn and Messrs. Lucht and Brandl:

I am writing to ask about your plans regarding the immediate future of the Peters Road bridge in the Town of Sharon.

The Office of the Commissioner of Railroads (OCR) recently received a copy of a letter dated June 11, 2014, to you from Kevin Brunner, Walworth County Highway Commissioner regarding the condition of the bridge that carries Peters Road over the tracks operated by the Wisconsin Southern Railroad Co. (WSOR).

Commissioner Brunner concludes that the Peters Road bridge is no longer safe for vehicular travel and should be closed as soon as possible based on recent engineering inspections which determined the bridge is in a failed state. He requests that you jointly take prompt action to close the bridge. He offers his department's assistance to implement the bridge closure and requests that you develop a plan of action for future bridge replacement.

It is my understanding that Peters Road is maintained by the Town of Sharon, that the rail line is located on land owned by the Wisconsin Department of Transportation (DOT), that the Wisconsin River Rail

Transit Commission (WRRTC) owns the track and other improvements, including bridges and finally that the WRRTC has contracted with the WSOR to provide rail service.

Commissioner Brunner writes that the Town, WRRTC and WSOR all have a responsibility for the bridge closure. While I do not disagree with him on that point, I note that the temporary closure of the bridge does *not* require joint action. The Town, WRRTC, or WSOR could each independently take action to close the bridge. While the OCR does have the authority over the bridge under Wis. Stat. § 195.31, the temporary closure of the bridge does *not* require prior approval of the OCR.

With respect to the OCR's authority over the bridge, the OCR also previously received a copy of a letter dated March 19, 2014 from the Town Chairman to the WSOR requesting immediate repair of the bridge and stating the Town would file a complaint with the OCR pursuant to Wis. Stat. § 195.31 unless the Town received a satisfactory response from the railroad within 20 days. To date, however, the OCR has not received a complaint from the Town.

In the absence of a complaint, the OCR may proceed on its own initiative to investigate and hear the matter and issue an order for the repair, reconstruction or replacement of the bridge and apportion the costs for such work.

I would prefer to allow the parties to either reach an agreement to temporarily close the bridge and ultimately repair or replace the bridge. In light of Commissioner Brunner's conclusion that the bridge is no longer safe for public travel, however, a decision about the temporary closure of the bridge needs to be made in the immediate future.

Please let me know whether you intend to take action for the temporary closure of the bridge. I look forward to hearing from you at your earliest convenience.

Sincerely,

Jeff Plale
Commissioner of Railroads

XC: Kevin Brunner, Walworth County Highway Commissioner
Mark Morrison, DOT



STATE OF WISCONSIN - OFFICE OF THE COMMISSIONER OF RAILROADS

FILE A COMPLAINT

Please be advised that complaints are subject to open records laws and all complaints will be posted to the PSC's/OCR's Electronic Regulatory Filing System (ERF). Personally identifiable information collected will not be used for any other purpose.

If you would like to comment on a case, please visit the Public Comments page.

Contact Information * indicates required fields

*First Name: *Last Name:

Business Name: (optional)

*Address:

*City: *State: *Zip:

Phone:

Email:

Complaint Information

Complaint Type:

Railroad Name:

Crossing Location: (if applicable)
(crossing number or street, city, county)

Enter your complaint or comment here: (2,000 character max)

It is the responsibility of the railroad company to make the necessary repairs to make the bridge safe under Wis. Stats., Sec. 195.31. Repairs must be made to protect the public as well as the railroad company. A copy of the Town of Sharon correspondence of March 19, 2014, regarding the Peters Road Bridge together with the Bridge Inspection Report will be provided by surface mail.



STATE OF WISCONSIN - OFFICE OF THE COMMISSIONER OF RAILROADS

FILE A COMPLAINT

Complaint Submission Confirmation

Please print or save this page as a record of your submission.

Your submission has been successfully received. A staff person will review your complaint and contact you if further information is necessary.

The following information has been successfully submitted...

07/15/2014

Richard Brandl
Town Chairperson of the Town of Sharon
N2084 County Line Road
Clinton, WI 53525
(608) 774-5390
richbrandl@sharontelephone.com

Complaint Type: Other

Railroad/Water Carrier Name: Wisconsin and Southern Railroad Company
Crossing Location: Peters Road Bridge, Town of Sharon, Walworth County, Wisconsin

It is the responsibility of the railroad company to make the necessary repairs to make the bridge safe under Wis. Stats., Sec. 195.31. Repairs must be made to protect the public as well as the railroad company. A copy of the Town of Sharon correspondence of March 19, 2014, regarding the Peters Road Bridge together with the Bridge Inspection Report will be provided by surface mail.

LAW OFFICES
ROETHE POPE ROETHE LLP

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DALE E. POPE
MATTHEW T. ROETHE
MARK E. ROBINSON
ALLEN J. IRGENS

*Wisconsin Lawyers:
Expert Advisers. Serving You.*

JOHN T. ROETHE (1911-1975)

Of Counsel:
ROBERT G. KROHN
DAVID J. ROSS

September 10, 2014

COPY

STATE OF WISCONSIN
OFFICE OF THE COMMISSIONER OF RAILROADS
PO BOX 7854
MADISON WI 53707

RE: Peters Road Bridge, Town of Sharon, Walworth County, Wisconsin

Dear Commissioner:

A formal complaint was filed by Richard Brandl, the Town Chairperson of the Town of Sharon, Walworth County, Wisconsin, on July 15, 2014. A copy of that Complaint is enclosed. No response has been received by Richard Brandl.

We represent the Town of Sharon. We would request that an investigation be done and that an answer be received to the complaint, as there has been no action by the railroad company even though repeated demands have been made for the repair of the bridge.

To supplement the complaint, I am enclosing copies of the correspondence to the Wisconsin & Southern Railroad dated March 19, 2014, and a copy of the bridge inspection report filed by the Wisconsin Department of Transportation.

The Town of Sharon has been forced to close the road, thereby depriving property owners in the area of ready transportation to their homes and farms. The Town has felt that it is extremely important to do whatever is necessary to get the road open so that the citizens are served by this road.

An inspection report by the Wisconsin Department of Transportation dated August 15, 2014, indicates that the bridge is unsafe for travel. A copy of said report is enclosed.

We would request that the State force the railroad to make the necessary repairs to make the bridge travel worthy, or to order the removal of the bridge and install an at-grade crossing.

Reply to  24 N. Henry Street, PO Box 151, Edgerton, WI 53534, PH: 608-884-3391 FAX: 608-884-7018

508 Campus Street, Ste. 101, Milton, WI 53563, PH: 608-868-4346 FAX: 608-868-4348

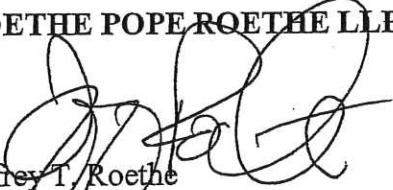
14 W. Main Street, PO Box 16, Evansville, WI 53536, PH: 608-882-4500 FAX 608-882-4322

State of Wisconsin
Office of the Commissioner of Railroads
September 10, 2014
Page Two

The time for action is now, as this has been ignored for years.

Respectfully submitted,

ROETHE POPE ROETHE LLP



Jeffrey T. Roethe
Email: jtroethe@roethelaw.com

kp

pc

Richard Brandl, Town Chairperson of the Town of Sharon (w/o encls.)
Karen Teliszczak, Town Clerk of the Town of Sharon (w/o encls.)
Allan Sweeney, Chairperson of the Wisconsin River Trail Commission (w/encls.)
Amy Loudenberg, Wisconsin State Representative (w/encls.)
Kenneth Lucht, Wisconsin & Southern Railroad, LLC (w/encls.)
Kevin Bruner, Walworth County Highway Commissioner (w/encls.)
Frank Huntington, WisDOT Railroads & Harbors (w/encls.)
Ben Meighan, WSOR Superintendent of Maintenance (w/encls.)