



ILLINOIS COMMERCE COMMISSION

October 5, 2009

County of Lake, a Body Politic and Corporate;  
Petitioner,

v.

Wisconsin Central, Ltd  
Respondent.

T09-0113

Petition for an Order to widen Harris Road, and install a multi-use path over the highway-rail crossing with the Wisconsin Central, Ltd.'s track, designated as crossing AAR/DOT #689 712G, railroad milepost 43.06 located in the Village of Libertyville, Lake County, Illinois.

Mr. Martin G. Buehler  
Lake County Highway Engineer  
600 Winchester Road  
Libertyville, IL 60048

Dear Mr. Buehler:

Receipt is acknowledged of the original Petition filed October 5, 2009 in the above matter.

**All future correspondence/pleadings should be filed and addressed to: Mr. Dave Lazarides, Director of Processing, Illinois Commerce Commission, 527 East Capitol Avenue, Springfield, IL 62701 or you may file the original electronically through E-docket if you have an account. To apply for an account, please log on to [www.icc.illinois.gov](http://www.icc.illinois.gov) and apply for an E-docket account.**

Processing and Information Section

KI

Cc: Staff: Mr. Dan Powers, ICC  
Staff: Mr. Brian Vercruysse, ICC  
Mr. John Henriksen, WC  
Mr. Thomas Healey, WC  
Mr. Terry Wepler, Mayor-Village of Libertyville



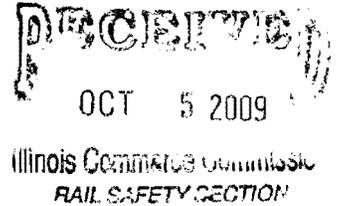
Division of Transportation

Martin G. Buehler, P.E.  
Director of Transportation/County Engineer

600 West Winchester Road  
Libertyville, Illinois 60048-1381  
Phone 847 362 3950  
Fax 847 362 5290

September 25, 2009

**Midlothian Road Extension  
Section 09-00244-03-FP**



Mr. David Lazarides  
Director of Processing  
Illinois Commerce Commission  
527 E. Capitol Avenue  
Springfield, IL 62701

TO 9-0113

Subject:  
ICC Petition – County of Lake v. Wisconsin Central Ltd.

Dear Mr. Lazarides,

The County of Lake is submitting the attached petition to the Illinois Commerce Commission for an Order to widen Harris Road, and install a multi-use path over the highway-rail crossing with the Wisconsin Central Ltd.'s track, designated as crossing AAR/DOT #689 712G, railroad milepost 43.06 located in the Village of Libertyville, Lake County, Illinois. This petition has been sent to all parties designated on the enclosed Service List.

If you have any questions on this project, please contact Darrell Kuntz at (847) 377-7400.

Very truly yours,

Paula J. Trigg, P.E.  
Director of Planning and Programming

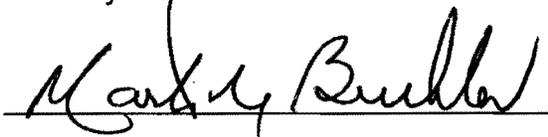


6. If it is determined by the Commission that the Railroad is required to provide additional crossing warning devices as a result of this Petition, the County will reimburse the Railroad for all engineering and installation costs for said devices.
7. Petitioner requests that its proposed plan attached as Exhibit A be approved by the Commission as complying with all requirements.
8. A Proposed Agreed Order, attached as Exhibit B, has been prepared by staff of the Commission's Rail Safety Section. The terms of the Agreed Order are acceptable to the Petitioner and Respondent as provided in the concurrence correspondence included as Exhibit C.
9. Petitioner requests that the request for a multi-use path pedestrian crossing sought in this petition be granted without a hearing and that the Agreed Order be entered at the earliest Commission Bench session.

RESPECTFULLY SUBMITTED,

September 28, 2009

MARTIN G. BUEHLER, P.E.  
Director of Transportation/County Engineer  
Lake County Illinois

BY:  \_\_\_\_\_

**SERVICE LIST**

**ILLINOIS COMMERCE COMMISSION**

**DOCKET NO.**

Terry Wepler  
Mayor  
Village of Libertyville  
118 W. Cook Avenue  
Libertyville, IL 60048

Martin G. Buehler, P.E.  
Director of Transportation/County Engineer  
Lake County Division of Transportation  
600 Winchester Road  
Libertyville, IL 60048

Rhett Taylor  
Mayor  
Village of Grayslake  
10 S. Seymour  
Grayslake, IL 60030

Michael J. Waller  
State's Attorney  
Lake County States Attorney's Office  
18 N. County Street  
4<sup>th</sup> Floor  
Waukegan, IL 60085

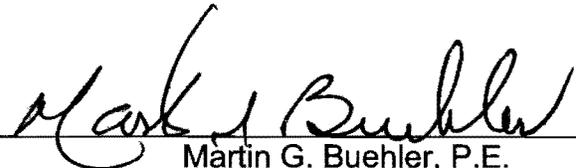
John Henriksen  
Manager of Public Works  
Canadian National Railway Company  
17641 South Ashland Avenue  
Homewood, IL 60430

Darrell McMurray  
Bureau of Local Roads  
Illinois Department of Transportation  
2300 South Dirksen Parkway  
Springfield, Illinois 62764

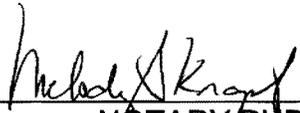
Tom Healey  
Counsel – Regulatory  
CN  
17641 South Ashland Avenue  
Homewood, IL 60430

**VERIFICATION**

I, Martin G. Buehler, P.E., first being duly sworn on oath, depose and say that I am duly appointed as Director of Transportation/County Engineer, Lake County, Illinois and that I have read the foregoing Petition, know the contents thereof, and that the same is true in substance and in fact to the best of my knowledge and belief.

  
\_\_\_\_\_  
Martin G. Buehler, P.E.

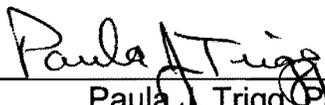
Subscribed and sworn before me  
this day of September 29, 2009.

  
\_\_\_\_\_  
NOTARY PUBLIC



**PROOF OF SERVICE**

I, Paula J. Trigg, P.E., Director of Planning & Programming, Lake County Division of Transportation, certify that I have served copies of this Petition to the persons listed on the attached Service List, at the addresses indicated, by depositing the same in the U.S. Mail, postage fully prepaid, at 326 N. Genesee Street, Waukegan, Illinois 60085-4257 before 5:00 p.m. on SEPTEMBER 30<sup>TH</sup> 2009.

  
\_\_\_\_\_  
Paula J. Trigg, P.E.  
Director of Planning & Programming



**STATE OF ILLINOIS**  
**ILLINOIS COMMERCE COMMISSION**

County of Lake, a Body Politic and Corporate;	:	
Petitioner,	:	
	:	
v.	:	T09-_____
	:	
Wisconsin Central, Ltd	:	
Respondent.	:	
	:	
Petition for an Order to widen Harris Road, and install a multi-use	:	
path over the highway-rail crossing with the Wisconsin Central,	:	
Ltd.'s track, designated as crossing AAR/DOT #689 712G, railroad	:	
milepost 43.06 located in the Village of Libertyville, Lake County,	:	
Illinois.	:	

**PROPOSED AGREED ORDER**

By Order of the Commission:

On September \_\_, 2009, the County of Lake ("County", or "Petitioner") filed the above-captioned verified Petition with the Illinois Commerce Commission ("Commission") naming as Respondent Wisconsin Central, Ltd. ("Company" or "WC") seeking authority to widen Harris Road (to be know as Midlothian Road) and install a multi-use path at the highway-rail grade crossing of the Company's track designated as AAR/DOT #689 712G, railroad milepost 43.06. The County requested that the matter be approved without a Hearing.

**PROCEDURAL HISTORY**

Included with the Petition was a proposed Agreed Order, which was drafted by the Commission's Transportation Bureau, Railroad Section ("Staff"). The terms of the Agreed Order are acceptable to all the parties, as documented in the September \_\_, 2009 filing. On \_\_\_\_, 2009, the record was marked "Heard and Taken."

**PETITIONER'S EVIDENCE**

Within its Petition, the County is seeking authority to widen Harris Road in accordance with the plan exhibit included within the September \_\_, 2009, Petition. This is part of an overall project to extend and realign Midlothian Road further north near the County fairgrounds and the Libertyville train station serving Metra's North Central Service

Line. Once complete the roadway name north of Peterson Road, and at the highway-rail crossing will be changed from Harris Road to Midlothian Road. The roadway widening at the crossing will allow for the installation of barrier median and necessitate the relocation of the warning devices. In addition, with the proximity of the fairgrounds, area parks, and the commuter station, a ten foot wide multi-use (pedestrian/bike) path will be installed on the west side of the Harris Road (Midlothian Road) crossing. The County does not request the installation of supplemental pedestrian gates for the multi-use path. The County will install "Stop/Look For Train" signs, and pavement marking for path users at the crossing.

The County is preparing the project for a bid letting in the Fall of 2009. It is anticipated that construction would then be completed by December 31, 2010. The total roadway project is estimated to cost \$3,000,000. The County will be responsible for all costs associated with the project, including the required railroad surface and signal work. Upon completion of the project, the County will be responsible for the maintenance and associated costs for the roadway and multi-use path. The WC will be responsible for all future operating and maintenance costs associated with the road crossing surface and automatic warning devices for the roadway portion of the crossing. The County will reimburse the WC for the maintenance costs associated with the path crossing surface and any supplemental pedestrian devices as required.

### **RESPONDENT RAILROAD'S POSITION**

The Company has no objection to the Petition.

### **COMMISSION STAFF ANALYSIS AND CONCLUSION**

Staff has no objection to the project, and has reviewed the plans and met with the parties prior to the filing of the Petition. Staff has provided its recommendation as to the type of signs that should be installed for the multi-use path at the crossing of the Company's track. In addition to this "Stop – Look for Trains" sign, because of the path alignment Staff also recommends that a side flasher be installed on the northwest quadrant flasher/gate/bell assembly. This will provide an active device for northbound path users, similar to what is provided by the roadway flasher for southbound path users.

### **COMMISSION FINDINGS AND CONCLUSIONS**

The Commission, having considered the entire record, finds that:

- (1) The recitals of fact in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact;
- (2) Petitioner County of Lake, Illinois, is a body politic and corporate organized and existing under and by virtue of the laws of the State of Illinois;
- (3) Respondent Wisconsin Central, Ltd. is a rail carrier engaged in the transportation of persons and property by rail in the State of Illinois;

- (4) The County has filed a Petition for an Order to widen the Harris Road crossing to include barrier median and a multi-use path. Upon completion of the project the roadway and crossing will be designated as Midlothian Road;
- (5) The Commission has jurisdiction over the Petitioner, Company, and the subject-matter of this proceeding;
- (6) The reconstruction and improvements to the Harris Road highway-rail grade crossing of the Company's track, requested by the Petitioner, are necessary to promote safety and the convenience of the public, in accordance with the Illinois Commercial Transportation Law, 625 ILCS 5/18c-7401(3);
- (7) The recitals of fact and conclusions of law contained in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact and conclusions of law;
- (8) The County should widen the Harris Road crossing to include barrier median and a multi-use path per the exhibit included within the September \_\_, 2009, Petition;
- (9) The Company should relocate and/or upgrade the warning devices to accommodate the County's plan. A side flasher should also be included for path users traveling northbound;
- (10) The County should be responsible for all costs associated with the project. The County should be responsible for the future maintenance costs associated with the roadway and multi-use path;
- (11) The Company should be responsible for the future costs associated with the maintenance of the roadway portion of the crossing surface and warning devices. The County should be responsible for the maintenance costs associated with the additional northbound flasher and path crossing surface;
- (12) The parties should proceed immediately to take the actions they are directed to perform by this Order; all work required of the parties under this Order should be completed by December 31, 2010;
- (13) Any person making a Request for an Extension of Time up to 30 days to complete a project ordered by the Commission must file a request with the Director of Processing and Information no later than 14 days in advance of the scheduled deadline. An Administrative Law Judge will consider and decide the request.
- (14) Any person making a Request for an Extension of Time that exceeds 30 days must file a Petition for Supplemental Order with the Director of Processing and Information no later than 21 days in advance of the scheduled deadline. The Commission will decide Petitions for Supplemental Orders.

- (15) Requests for Extension of Time and Petitions for Supplemental Orders must include the reason(s) the additional time is needed to complete the work and the time within which the Project will be completed. Prior to submitting a Request for Extension of Time or a Petition for Supplemental Order, the person must notify the Commission's Rail Safety Program Administrator that it is unable to complete the Project within the ordered timeframe.
- (16) The Commission or its Administrative Law Judge reserves the right to deny Petitions for Supplemental Orders and Requests for Extension of Time, if the reason(s) supporting the request is (are) insufficient or where it appears the person has not made a good faith effort to complete the Project within the allotted time. Failure of the Commission or Administrative Law Judge to act on a pleading prior to the deadline means the originally ordered completion date remains in effect.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that the County of Lake is authorized and shall, in accordance with the plans incorporated into the Petition, widen and reconstruct the roadway at the Harris Road highway-rail grade crossing of the Wisconsin Central Ltd.'s track to include the multi-use path, and barrier median. All work shall be completed by the County of Lake in accordance with Findings (7) through (16).

IT IS FURTHER ORDERED that the Wisconsin Central Ltd. shall complete the reconstruction and widening of the crossing surface and installation of the roadway warning devices at the Harris Road highway-rail grade crossing of its track, in conjunction with the Petitioners work, and in accordance with Findings (7) through (16).

IT IS FURTHER ORDERED that prior to construction, the Wisconsin Central Ltd. shall file Form 3 of Section 1535 of Title 92 of the Illinois Administrative Code showing details of the automatic warning devices required under this order, and shall receive approval by resolution of the Commission Transportation Bureau Rail Safety Program Administrator before installing the devices;

IT IS FURTHER ORDERED that the Petitioner and the Wisconsin Central Ltd. shall, at six-month intervals from the date of this order until the project has been completed, submit written reports to the Director of Processing in the Commission's Transportation Bureau ("Director of Processing"), describing the progress that has been made toward completing the project. If the project is behind schedule, the report shall include a brief explanation of the reason for the delay. Each progress report shall include the Commission Order number; the date the Order was entered; the deadline for completion of the project established by the Order; the type of improvement; and project manager information (name, title, mailing address, telephone number, and facsimile number) of the employee responsible for the management of the project.

IT IS FURTHER ORDERED that the Petitioner shall within five days of the completion of the project, file with the Director of Processing a letter advising the Commission of the completion date.

IT IS FURTHER ORDERED that the Wisconsin Central Ltd. shall within five days of the completion of the work herein required, submit a completely updated United States Department of Transportation Inventory Form (including the name change to Midlothian Road) to the Federal Railroad Administration, the Chief of Data Services at the Illinois Department of Transportation, and the Director of Processing and Information, Transportation Bureau of the Illinois Commerce Commission.

IT IS FURTHER ORDERED that the Commission shall retain jurisdiction for the purpose of issuing any supplemental order or orders as it may deem necessary.

IT IS FURTHER ORDERED that in accordance with Chapter 625 ILCS 5/18c-2201 and 5/18c-2206 of the Illinois Commercial Transportation Law, this is a final Order subject to the Administrative Review Law.

By Order of the Commission this 13<sup>th</sup> day of November 2009.

CHARLES E. BOX  
CHAIRMAN

## Vercruysse, Brian

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**From:** Kuntz, Darrell W. [DKuntz@lakecountyil.gov]  
**Sent:** Tuesday, September 22, 2009 11:59 AM  
**To:** Vercruysse, Brian  
**Subject:** RE: LCDOT - Midlothian Road Extension Petition

Good Almost Afternoon Brian,

LCDOT has a few minor questions/comments on the order.

1. Will you change the dates referencing the August 24<sup>th</sup> filing of the petition to the actual filing date? There are 4 locations with the date. I think I may have asked you this before, but wanted to make sure in case I didn't.
2. The last sentence in the 1<sup>st</sup> paragraph on page 2, can be deleted. It is restated in paragraph 2, 4<sup>th</sup> sentence.
3. Can the phrase "including the side flasher and path crossing surface." be added to the end of the 4<sup>th</sup> sentence in paragraph 2 on page 2?
4. With the addition of comment #3, the last sentence 2<sup>nd</sup> paragraph on page 2 can be deleted.
5. Can "road" be added in front of the first "crossing" in the 5<sup>th</sup> sentence of the 2<sup>nd</sup> paragraph on page 2?
6. As we are now looking to be on the October bench agenda, does WCRR have an estimate for the crossing work that can be added to the order? If not, we can move forward without it, but you had previously mentioned that it was preferred to have it in the order.

Thank you for your help and have a great afternoon.

### **Darrell Kuntz, P.E.**

Project Engineer  
Lake County Division of Transportation  
600 W Winchester Rd  
Libertyville, IL 60048  
Email: [dkuntz@lakecountyil.gov](mailto:dkuntz@lakecountyil.gov)  
Phone: 847-377-7459  
Fax: 847-362-5290

---

**From:** Vercruysse, Brian [mailto:bvercruy@icc.illinois.gov]  
**Sent:** Tuesday, September 15, 2009 1:11 PM  
**To:** Kuntz, Darrell W.; @ Healey, Thomas J.  
**Cc:** Zemaitis, Michael G.; 'Brett Duffy'; 'Rob Bielaski'; John.Henriksen@cn.ca  
**Subject:** RE: LCDOT - Midlothian Road Extension Petition

Darrell and Tom,

The attached Order provides for the revisions below. The Order has also been modified per WC comment to note that the maintenance costs associated with the path crossing surface and additional NB flasher will be the responsibility of the County.

Please review and if all is acceptable, provide a final concurrence e-mail so that the County may complete its filing.

If you have any questions, please let me know.

Thanks,  
Brian

Brian Vercruysse  
Illinois Commerce Commission  
527 E. Capitol Avenue

Springfield, IL 62701  
M 312-636-7760  
[bvercrucy@icc.illinois.gov](mailto:bvercrucy@icc.illinois.gov)

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**From:** Kuntz, Darrell W. [<mailto:DKuntz@lakecountyil.gov>]  
**Sent:** Friday, September 04, 2009 12:55 PM  
**To:** Vercruyse, Brian  
**Cc:** Zemaitis, Michael G.; 'Brett Duffy'; 'Rob Bielaski'; @ Healey, Thomas J.; John.Henriksen@cn.ca  
**Subject:** LCDOT - Midlothian Road Extension Petition

Good Afternoon Brian,

Please see the attached Petition for the multi-use path crossing. I have included the word copy of the petition as well as the petition and exhibit in PDF format.

Regarding the Proposed Agreed Order, LCDOT has only a few minor comments.

1. Please add "Exhibit B" on page one of the Order.
2. Please remove the reference to "crossbucks" from the second to last sentence of paragraph one on page two of the Order. LCDOT will be installing the "Stop Look for Trains" sign per ICC request in lieu of crossbucks.
3. Please remove the reference to the costs of the required railroad surface and signal work in the Order. LCDOT agrees to be responsible for all costs associated with the project.
4. The estimate of the roadway portion of the project, excluding all railroad crossing work, is approximately \$3,000,000.

With the above changes made to the Proposed Agreed Order, Lake County Division of Transportation is in concurrence with the Order.

Thank you and have a great holiday weekend.

**Darrell Kuntz, P.E.**  
Project Engineer  
Lake County Division of Transportation  
600 W Winchester Rd  
Libertyville, IL 60048  
Email: [dkuntz@lakecountyil.gov](mailto:dkuntz@lakecountyil.gov)  
Phone: 847-377-7459  
Fax: 847-362-5290

## Vercruysse, Brian

---

**From:** @ Healey, Thomas J.  
**Sent:** Saturday, September 05, 2009 9:34 AM  
**To:** Vercruysse, Brian  
**Cc:** 'Kuntz, Darrell W.'; John.Henriksen@cn.ca  
**Subject:** Re: FW: LCDOT - Midlothian Road Extension Petition

Brian:

The only items that I noticed is that we routinely require the petitioner to agree to pay all maintenance and replacement costs for the additional surface and signals, if ordered. John may offer additional comments.

Tom

"Vercruysse, Brian" <bvercruy@icc.illinois.gov>

09/04/2009 03:19 PM

To "@ Healey, Thomas J." <tom.healey@cn.ca>, "John.Henriksen@cn.ca" <John.Henriksen@cn.ca>

cc "Kuntz, Darrell W." <DKuntz@lakecountyil.gov>

Subject FW: LCDOT - Midlothian Road Extension Petition

Hi Tom and John,

As requested below by the County, I will make the revisions to the Order. Does the WC have any comments? If not, a concurrence e-mail would be greatly appreciated so that the County can file all of the documents and we can hopefully avoid a hearing.

Thank you very much and have a good weekend,  
Brian

Brian Vercruysse  
Illinois Commerce Commission  
527 E. Capitol Avenue  
Springfield, IL 62701  
M 312-636-7760  
[bvercruy@icc.illinois.gov](mailto:bvercruy@icc.illinois.gov)

**From:** Kuntz, Darrell W. [<mailto:DKuntz@lakecountyil.gov>]  
**Sent:** Friday, September 04, 2009 12:55 PM  
**To:** Vercruysse, Brian  
**Cc:** Zemaitis, Michael G.; 'Brett Duffy'; 'Rob Bielaski'; @ Healey, Thomas J.; [John.Henriksen@cn.ca](mailto:John.Henriksen@cn.ca)  
**Subject:** LCDOT - Midlothian Road Extension Petition

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1. Please add "Exhibit B" on page one of the Order.
2. Please remove the reference to "crossbucks" from the second to last sentence of

**Vercruysse, Brian**

---

**From:** John.Henriksen@cn.ca  
**Sent:** Thursday, September 17, 2009 10:20 AM  
**To:** Vercruysse, Brian  
**Cc:** @ Healey, Thomas J.  
**Subject:** Re: FW: LCDOT - Midlothian Road Extension Petition  
**Attachments:** REV 2\_LGL 5340 03 ICC BD 062409.docx; ICC\_EXHIBIT\_A.pdf; REV 2\_LGL 5340 03 ICC BD 062409.pdf; 082009\_Proposed Order\_T09-\_\_\_\_\_Harris at WC.doc

I am sorry this is late.

I cannot add anything to the comments you already have received. Plus I believe we discussed this in the field the other week.

John M. Henriksen  
CN - Manager Public Works  
17641 South Ashland Ave.  
Homewood, IL 60430  
708.332.3557

"Vercruysse, Brian" <bvercruy@icc.illinois.gov>

09/04/2009 03:14 PM

To "@ Healey, Thomas J." <tom.healey@cn.ca>, "John.Henriksen@cn.ca" <John.Henriksen@cn.ca>

cc "Kuntz, Darrell W." <DKuntz@lakecountyil.gov>

Subject FW: LCDOT - Midlothian Road Extension Petition

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Thank you very much and have a good weekend,  
Brian

Brian Vercruysse  
Illinois Commerce Commission  
527 E. Capitol Avenue  
Springfield, IL 62701  
M 312-636-7760  
[bvercruy@icc.illinois.gov](mailto:bvercruy@icc.illinois.gov)

**From:** Kuntz, Darrell W. [<mailto:DKuntz@lakecountyil.gov>]  
**Sent:** Friday, September 04, 2009 12:55 PM  
**To:** Vercruysse, Brian