

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE DEPARTMENT OF HEALTH

In the Matter of the Petition of the  
City of Cologne for the Establishment of an  
At-Grade Crossing over the Twin Cities &  
Western Railroad Line South of CSAH 36  
in the City of Cologne, Minnesota, pursuant  
to Minn. Stat. § 219.072 (2004)

**FIRST PREHEARING ORDER**

A prehearing conference was held in the above-captioned matter by telephone on July 17, 2006, at 2:00 p.m. R. Lawrence Harris, Attorney at Law, Melchert Hubert Sjodin, 121 West Main Street, Suite 200, Waconia, MN 55387, appeared on behalf of the City of Cologne. Thomas V. Seifert, Attorney at Law, Head, Seifert & Vander Weide, 333 South Seventh Street, Suite 1140, Minneapolis, MN 55402, appeared on behalf of the Twin Cities & Western Railroad. Susan Aylesworth, Minnesota Department of Transportation, Freight and Commercial Vehicle Operations, 395 John Ireland Boulevard, St. Paul, MN 55155-1899, elected not to participate in the conference call.

Based upon discussions with counsel during the prehearing conference, IT IS HEREBY ORDERED as follows:

1. The City will provide counsel for the Railroad with copies of the attachments to the petition as soon as possible.
2. The City shall serve the Railroad with a statement identifying persons it expects to call as expert witnesses by August 1, and the Railroad shall serve the City with a statement identifying persons it expects to call as expert witnesses by August 8. These statements shall describe the subject matter of the expected testimony, state the substance of facts and opinions to which the expert is expected to testify, and provide a summary of the grounds for each opinion.
3. Counsel shall exchange and file proposed exhibit and witness lists by August 11, 2006. The witness lists shall include a brief summary of the expected testimony of each witness. To the extent possible, the parties shall enter into prehearing stipulations regarding the facts involved in the hearing and foundation for anticipated exhibits.
4. Counsel shall notify the Administrative Law Judge by August 10, 2006, whether they will require the services of a court reporter at the hearing. Otherwise, the hearing will be tape-recorded.

5. The hearing in this matter shall commence on August 17, 2006, at 9:30 a.m. in the courtrooms of the Office of Administrative Hearings, 100 Washington Avenue South, Suite 1700, Minneapolis, Minnesota. The hearing shall continue on August 24 and 25, 2006, if necessary. The hearing will be held in the City of Cologne on August 24 in order that a site visit may occur on that date. If possible, counsel for the City will make arrangements for a hearing room in Cologne. The hearing will be held at the OAH in Minneapolis on August 25.
6. The parties shall appear at the hearing with at least three copies of each exhibit they plan to offer into evidence. Exhibits shall be pre-marked using Arabic numbers without designation of the party offering the exhibit.

Dated: July 21, 2006.

s/Barbara L. Neilson  
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BARBARA L. NEILSON  
Administrative Law Judge