Indemnification Issues
SHRP2 R16 Community of Interest Meeting

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Indemnification in Wisconsin

The state cannot indemnify the railroads

- Such agreements conflict with Wisconsin’s Constitution, Article VIII, Sections 2, 3 and 4. WisDOT cannot pledge the credit of the state or contract state debt for payment of indemnification agreements.

- The State of Wisconsin enjoys sovereign immunity, except as specified by the State Legislature. No agency, employee or officer may waive sovereign immunity without specific statutory authority.
Indemnification Issues for Wisconsin

Construction Agreements
Training
Inspection
Recreation Trails/Trespassing
Construction Agreements

Without the authority to indemnify the railroads WisDOT has been unable to use Master Agreements.

Have developed standard agreements including forcework agreements for signals and surfaces, also Construction and Maintenance (C&M) agreements for structures.

Still takes significant time but can plan for it.
Safety Training

Railroad’s online safety training requires the trainee check a box indemnifying the railroad.

Typically for crossings have the right to be on the highway easement for construction, maintenance, and survey requirements

Working with CN to develop separate agreement to address indemnification issue without developing separate training.
Inspections
Right of Entry

Issue comes into play especially for structures where the property rights are not well established or documented.

Inspection of structures can be done by consultants.

Another solution is being piloted in Wisconsin.
UAS Used for Inspection

- Topcon Falcon 8
- DJI Inspire

The micro drone used for interior framing system inspection.
URT Bridge – Milwaukee, WI

Point Cloud

Geolocated Photos

Bridge Inspector with FPV goggles and controller for Falcon 8 camera.

10/30/2017
Recreation Trails
And Trespassing

Other state agencies are under the same rules as WisDOT for indemnification

Local municipalities cannot indemnify for a private company’s own negligence

For crossing may be able to make public if requested by a highway authority (this does not include DNR)
WisDOT Safety Video

https://www.youtube.com/watch?v=M0iU98VZOs4

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