

FILE

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October 10, 2008

VIA FACSIMILE AND U.S. MAIL

The Public Utilities Commission of Ohio
Docketing Division
180 East Broad Street
Columbus, Ohio 43215-3793
Fax No.: 614-466-0313

**Re: In the Matter of the Authorization of CSX Transportation, Indiana & Ohio
Railway and Norfolk Southern Railway to Install Active Grade Crossing
Warning Devices in Five Counties
PUCO Case No. 07-1169-RR-FED
Our File No: N1432/176814**

Dear Docketing Clerk:

Attached for filing is Norfolk Southern's Response to the Commission's Entry of
September 9, 2008.

I confirm that, via regular mail, we are forwarding to you the original document
plus seven copies.

Please call me – at (419) 241-6000 – if you have any questions or concerns.

Thank you.

Very truly yours,

EASTMAN & SMITH LTD.

D. Casey Talbott

DCT/kml
Enclosures

cc: Ms. Leah Thomas Dalton (w/enc.)
Ms. Susan Kirkland (w/enc.)

Columbus

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Date processed OCT 15 2008
Technician

The Public Utilities Commission of Ohio

Docketing Division

October 10, 2008

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Re: In the Matter of the Authorization of CSX Transportation, Indiana & Ohio
Railway and Norfolk Southern Railway to Install Active Grade Crossing
Warning Devices in Five Counties

Mr. Rick Ray (w/enc.)

Mr. Robert Stanley (w/enc.)

Mr. Steve Leffel (w/enc.)

Mr. Mel McNichols (w/enc.)

Mr. Biff Konrad (w/enc.)

Logan County Engineer (w/enc.)

Mayor Dean Carnahan (w/enc.)

Pusheta Township Trustees (w/enc.)

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

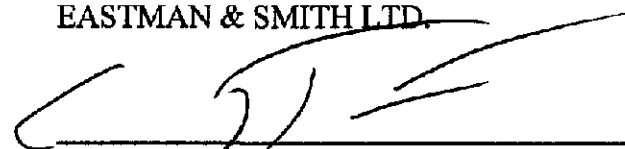
In the Matter of the Authorization of	:	Case No. 07-1169-RR-FED
CSX Transportation, Indiana & Ohio	:	
Railway and Norfolk Southern	:	<u>NORFOLK SOUTHERN'S</u>
Railway to Install Active Grade	:	<u>RESPONSE TO THE</u>
Crossing Warning Devices in Five	:	<u>COMMISSION'S ENTRY OF</u>
Counties.	:	<u>SEPTEMBER 9, 2008</u>
	:	
	:	D. Casey Talbott (0046767)
	:	(Trial Attorney)
	:	Mark W. Sandretto (0079536)
	:	EASTMAN & SMITH LTD.
	:	One SeaGate, 24 th Floor
	:	P. O. Box 10032
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	:	
	:	Attorneys for Norfolk Southern
	:	Railway Company

Norfolk Southern respectfully supports – and joins in – the Ohio Rail Development Commission (“ORDC”)’s letter to the Commission of August 11, 2008, requesting that the Kercher Street project be held in abeyance pending agreement and authorization for the remaining crossings (10 total, including Kercher Street) of the Miamisburg portion of the CJ Line corridor.

A memorandum in support is attached.

Respectfully submitted,

EASTMAN & SMITH LTD.



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Attorneys for Norfolk Southern
Railway Company

MEMORANDUM IN SUPPORT

On August 11, 2008, the ORDC filed a letter asking that the Commission hold in abeyance a grade crossing improvement project located at Kercher Street (524-650E) in Miamisburg, Montgomery County, Ohio.

By Entry of September 9, 2008, the Commission requested that the ORDC file additional information by September 16, 2008, and that other interested parties (including Norfolk Southern) file appropriate responses on or before September 22, 2008.

Norfolk Southern sought and secured – per the Commission’s Entry of October 2, 2008 – a first extension of time through October 10, 2008 within which to respond to the Commission’s Entry of September 9, 2008.

In response, Norfolk Southern supports – and joins in – the ORDC’s request to hold the Kercher Street project in abeyance pending further discussion and agreement regarding the nine (9) other Miamisburg crossings on Norfolk Southern’s CJ Line corridor.

Norfolk Southern concurs with the ORDC that, in light of related safety, engineering, and cost concerns, the Miamisburg crossings should be addressed jointly, and that any piecemeal upgrade of Kercher Street would be of limited to no “big picture” benefit (since, *e.g.*, the crossing would require re-engineering in the likely event that any of the other nine crossings are upgraded versus closed). More specifically, the ten Miamisburg crossings are interconnected, and construction will involve working around insulated joints; further, concerns exist regarding frequency saturation as well as the placement of termination shunts within overlapping approaches.

Accordingly, the interests of the parties would be best-served if any upgrade of Kercher Street is addressed in conjunction with the remaining crossings, at which various upgrades versus closures are anticipated. (At least certain closures appear necessary, toward resolving the frequency saturation and related concerns.)


The interested parties have scheduled an in-person meeting for November 6, 2008 at which Miamisburg’s crossings will be discussed – specifically, the parties intend to at least lay the groundwork toward coming to a mutually-beneficial agreement providing for improvements of at least certain of Miamisburg’s crossings versus the closure of others. (*See, e.g.*, the undersigned’s e-mail of October 10, 2008 to the City of Miamisburg; see also, the ORDC’s letter of this same date confirming its recommendations regarding each of the ten crossings at issue.)

Assuming such agreement with respect to the ten existing crossings in Miamisburg, Norfolk Southern anticipates that the related engineering could be completed within approximately six months of the date of the agreement, and that the Miamisburg portion of the CJ Line corridor could then be completed within eighteen months (in other words, six months for the engineering, plus another twelve months for construction).

For the foregoing reasons, Norfolk Southern supports and joins in the ORDC's request that the Kercher Street project be held in abeyance pending further discussion/agreement/authorization regarding the nine other crossings on the Miamisburg portion of the CJ Line corridor. (Assuming necessary, Norfolk Southern and the ORDC welcome the opportunity to meet with the Commission to discuss this matter further.)

Respectfully submitted,

EASTMAN & SMITH LTD.




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Attorneys for Norfolk Southern
Railway Company

PROOF OF SERVICE

A copy of the foregoing *Norfolk Southern's Response to the Commission's Entry of September 9, 2008* was mailed this 10th day of October, 2008 to: **Leah Thomas Dalton**, Deputy Chief, Transportation Department, Safety Programs Division/Rail, c/o The Public Utilities Commission of Ohio, 180 East Broad Street, Columbus, Ohio 43266-0573; **Susan Kirkland**, Manager, Safety Programs, c/o Ohio Rail Development Commission, 50 West Broad Street, 15th Floor, Columbus, Ohio 43615; **Rick Ray**, Norfolk Southern Railway Company, 1200 PeachTree Street, Atlanta, Georgia 30309; **Robert L. Stanley**, City Engineer, 10 North First Street, Miamisburg, Ohio 45342; **Steven Leffel**, City of Troy, 100 South Market Street, P.O.

Box 3003, Troy, Ohio 45373; **Mel McNichols**, CSX Transportation, J-301 500 Water Street, Jacksonville, Florida 32202; **Biff Konrad**, Indiana & Ohio Central Railway, 497 Circle Freeway Drive Suite 230, Cincinnati, Ohio 45246; Logan County Engineer, 1991 CR 13, P.O. Box 427, Bellefontaine, Ohio 43311-0427; **Mayor Dean Carnahan**, 99 North Howard Street, Sabina, Ohio 45169; and **Pusheta Township Trustees**, 14002 Pusheta Road, Wapakoneta, Ohio 45895.



Attorneys for Norfolk Southern
Railway Company

D. Casey Talbott

From: D. Casey Talbott
Sent: Friday, October 10, 2008 11:57 AM
To: 'kim.combs@cityofmiamisburg.org'
Subject: meeting with norfolk southern/orc re miamisburg's grade crossings: 1:00pm on november 6, 2008

hello kim:

per our recent telephone conversations, i confirm that we have agreed to schedule the above meeting for 1:00pm on november 6, 2008.

we plan to discuss miamisburg's ten existing grade crossings on ns' cj line corridor, toward laying the groundwork for entering into a mutually-beneficial agreement providing for improvements at certain of these crossings coupled with the closure of others.

i plan to attend, and will be accompanied by tom sharp (and rick ray, in-person or via phone) of norfolk southern, and by susan kirkland and perhaps tim perkins of the orc.

as we discussed, please forward this e-mail to the appropriate miamisburg officials (e.g., mayor church, city manager nelson, and city engineer stanley), so they can note this meeting on their respective calendars also, and to my understanding, the orc is finalizing and will in short order forward a more detailed letter summarizing its recommendations for each of miamisburg's crossings.

that's it for now.

please call or e-mail me if you have any questions or concerns; otherwise, we'll look forward to seeing you on november 6.

and thank you for your assistance in scheduling this meeting.

EASTMAN & SMITH LTD.
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10/10/2008



Ohio Rail Development Commission

50 West Broad Street, Suite 1510, Columbus, Ohio 43215
614-644-0306 (telephone) • 614-728-4520 (fax) • www.dot.state.oh.us/ohiorail

October 10, 2008

The Honorable Richard C. Church, Jr.
Mayor, City of Miamisburg
Miamisburg Civic Center
10 North First Street
Miamisburg, OH 45242

Dear Mayor Church:

The Ohio Rail Development Commission (ORDC) and the Norfolk Southern Corporation (NS) have partnered in upgrading the grade crossing safety on its corridor from Columbus to Cincinnati, known as the CJ line. This upgrade is proceeding in segments and, having completed a segment in Springfield we plan to commence upgrading the line through Miamisburg. The Springfield segment of the project was very successful and resulted in the installation of state of the art flashing light and roadway gates, four quadrant gate installations with vehicle detection systems, way side horn installations and the closure of redundant grade crossings through the community. A chart summarizing the improvements at the crossings in the Springfield community is shown below. The total project involved greater than a \$3.5 million dollar investment in the City of Springfield.

Clark County, City of Springfield	
Crossing Location and Identifier	Type of Upgrade
West Main Street, 523507R	Circuitry
Snyder Street, 523506J	Standard Light & Gate
Zishler Street, 523505C	Closed
N. Bechtle Avenue, 523504V	Circuitry
N. Isabella Street, 523503N	Closed
W. Main Street, 523501A	Circuitry
Bell Street, 523502G	Closed
S. Western Avenue, 523500T	Circuitry
S. Schaffer Street, 523498U	Standard Light & Gate
W. High Street, 523496F	Circuitry
S. Race Street, 523495Y	Closed
S. Yellow Springs Street, 523494S	Circuitry
S. Plum Street, 523492D	Closed

Richard C. Church, Jr.

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Clark County, City of Springfield (cont.)	
Crossing Location and Identifier	Type of Upgrade
Wittenburg Avenue, 523488N	4 Quad Gates
S. Center Street, 523486A	Circuitry
Fountain Avenue, 523485T	Circuitry
S. Limestone, 527967G	4 Quad Gates
Linden Avenue, 527969V	4 Quad Gates
York Street, 527971W	Standard Light & Gate
East Street, 527972D	Circuitry
Burt Street, 527973K	Circuitry
Burnett Road, 527974S	Circuitry
S. Lowry Avenue, 523490P	4 Quad Gates

The ORDC and NS negotiated with the City of Springfield with regard to the upgrading of the crossings in the community and an incentive package for the closure of certain crossings. Our goal is to improve safety at grade crossings for the benefit of citizens traversing the railroad. Working with communities and railroads helps us to achieve this goal.

The ORDC is the source of Federal funds for grade crossing safety improvements. Because Federal funds are being used, the ORDC must meet certain requirements related to those funds. One of the approved circumstances in which the ORDC can expend funds on a project is where closure of redundant crossings is involved. There is a potential for the closure of two vehicle grade crossings and one pedestrian grade crossing in your community in exchange for improvements to other crossings with state of the art protective systems and other incentives.

A meeting has been established on November 6, 2008 at 1:00 p.m. for the ORDC and NS representatives to discuss the project through your city, incentives in exchange for closures of certain grade crossings, and the needs of your city with respect to safety and the wellbeing of the citizens of your community.

In preparation for the meeting, the ORDC and NS have reviewed the corridor through the City of Miamisburg. Attached is a spreadsheet reflecting the existing situation at the crossings through the community along with our recommended modifications. We intend this to be used as a tool to initiate discussion with the City administration.

Should you have any questions or concerns in advance of our meeting please contact me at 614-644-0286 or e-mail Susan.Kirkland@dot.state.oh . I look forward to the development of a worthwhile project for all involved.

Respectfully,


Susan J. Kirkland
Manager, Safety Programs
Ohio Rail Development Commission

Attachments (1)

C: William H. Nelson, Jr., City Manager, City of Miamisburg
The Honorable Jeff Jacobson, Ohio Senate
The Honorable John Husted, Ohio House of Representatives
Alan Klodell, Assistant Ohio Attorney General
Joseph Glinski, Safety Programs Engineer, Federal Highway Administration
William Barringer, Resident V.P. Public Affairs, Norfolk Southern
Thomas Sharp, Manager, Grade Crossing Safety, Norfolk Southern
Richard Ray, Administrator, Grade Crossing Improvement, Norfolk Southern
Casey Talbott, Attorney at Law, Eastman & Smith, Ltd.
Mike McKnight, Rail Coordinator, Ohio Department of Transportation, District 8
Leah Dalton, Chief, Railroad Division, Public Utilities Commission of Ohio

CITY OF MIAMISBURG			
Street	AAR #	Current Protection	Recommended Modifications
Richard Street	524649K	FL	L&G
Kercher Street	524650E	FL	L&G
E. Pearl Street	524651L	L&G	Circuitry Upgrade
Buckeye Street	524652T	FL	Possible Closure
E. Maple Avenue	524653A	L&G*	Circuitry Upgrade
Central Avenue	524654G	L&G	Circuitry Upgrade
Park Street (Pedestrian)	524644N	Crossbucks	Possible Closure
Linden Avenue	524657C	L&G	L&G
Lock Street	524658J	FL	Possible Closure
Mound Avenue	524659R	L&G	L&G
*one gate			
FL = Flashing Lights			
L&G = Lights and Gates			