

FILE

09-1903-RE-SS

Arthur C. Risley
P.O. Box 555
North Kingsville, OH 44068
(440) 265-6526

Attention: Docketing Division
PUCO
180 East Broad Street
Columbus, OH 43215

PUCO

2009 DEC -3 PM 1:28

RECEIVED-DOCKETING DIV.

Re: Private Railroad Crossing A-0138-09-0149

Dear Sirs:

I am submitting this information at the request of Leah Thomas-Dalton.

CSX has removed my private crossing which has been maintained in perpetuity by each railroad using the easement since 1852 as agreed upon with landowner Norman Palmer, March 12, 1852, recorded in Ashtabula County records division.

It is my position that since the railroad has maintained the above crossing for over 100 years without charging any landowner for the crossing and since we have not signed any agreement with CSX that differs with the original agreement that it is their responsibility to maintain the crossing in the condition that it has been for the past 20 years of my ownership.

I was never contacted by CSX and do not understand why they refuse to replace the crossing they removed.

Enclosed please find a copy of the letter from Leah Thomas-Dalton containing the inspection report from Joe Dunn, PUCO/FRA.

Thank you for your attention to this matter. Please contact me at the above address and telephone number.

Sincerely,


Arthur C. Risley

Cc: Leah Thomas-Dalton
Honorable Deborah Newcomb
Senator Capri Cafaro

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**Public Utilities
Commission**

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Paul A. Centolella
Cheryl Roberto

November 12, 2009

Arthur Risley
3011 East Center St
PO Box 555
North Kingsville, Ohio 44068

RE: Request to restore private crossing
A-0138-09-0149 – North Kingsville, Ohio
Ashtabula County

Dear Mr. Risely,

Enclosed is the report submitted by Inspector Joe Dunn on the above subject matter. In view of the inspector's findings and recommendations, the file is being closed.

If you have any additional concerns or if I may be of further assistance, do not hesitate to contact me @ (614) 466-1150.

Very truly yours,

Leah Thomas-Dalton

Leah Thomas-Dalton, Chief
Rail Division

c: Joe Dunn, PUCO
Troy Kopke, CSX
Thomas Thoburn, CSX
Mike Cameron, CSX
File

**PUBLIC UTILITIES COMMISSION OF OHIO
TRANSPORTATION DEPARTMENT
RAIL DIVISION**

Date of Assignment: September 21, 2009

Date of Inspection: September 24, 2009; September 25, 2009; September 29, 2009;
October 1, 2009; October 16, 2009; October 23, 2009

Subject: Alleged Failure of CSX Transportation to Restore Private Crossing.
A-0138-09-0149

DOT No. 523-903G

FINDINGS

On September 21st I spoke to the complainant to advise him I was in receipt of his complaint and to gather more information about the same. The complainant stated that the CSX Railroad had made track repairs on there mainline about two months ago and had removed his private crossing denying him access to 35 acres of his property. He stated that he has attempted to contact the railroad and has gotten no response.

I inspected (JRD-0035-000524) the area on September 24, 2009. This private crossing was located between SR 193, and Harmon Rd. on the CSX mainline. I identified the location where this crossing had been by railroad signs identifying a private crossing with a DOT number of 523-903G. There was evidence along the right of way of the removal of crossing. While there I took pictures of the sign identification and material removed and spoke to the resident of the adjoining property who confirmed the railroad's removal of the crossing.

The same day I attempted to contact Mr. Troy Kopke, Roadmaster for the CSX Railroad in that area. I got his voicemail and left him a detailed message about the removed crossing and the need to restore it in a timely manner. On September 25th I emailed Mr. Kopke asking for a schedule to restore the crossing and advising him that it was a violation of the Ohio Revised Code to remove a private crossing and not restore it. Mr. Kopke's response referred to the property owners not meeting their responsibility to the railroad. I informed him that the complaint would be put in abeyance to give the railroad time to make repairs. (See attached)

On October 1st, I spoke again to the complainant inquiring if there had been any change in status to the crossing or any communication from the railroad. He stated that he had not heard anything from them and that nothing had been done to restore the crossing. I then called Mr. Kopke and getting his voicemail, I left another message asking him to contact me regarding the railroad's intentions for restoring this crossing. To date there has been no return call.

On October 16th I again sent an email (see attached), to Mr. Kopke regarding the status of the crossing and have not received a reply:

Summary

The railroad has removed a private crossing while performing maintenance on its tracks. It has not restored that crossing in a timely manner. This is a violation of Ohio Revised Code sections 4955.27 and 4955.28. The complainant has attempted to resolve this problem with the railroad for over two months with no success prior to contacting the Commission.

To date the railroad has not returned my calls, and responses to email indicate they have no intention of addressing the problem.

CONCLUSIONS & RECOMMENDATIONS

The complaint should be closed at the staff level, and formal hearing before the Commission should be scheduled to respond to this violation of the Ohio Revised Code sections 4955.27 and 4955.28.

Joe Dunn
Inspector
PUCO/FRA Safety Inspector
October 23, 2009
Attachment

Copy:

Troy Kopke, Roadmaster
CSX Transportation
1245 West 37th St.
Ashtabula, Ohio 44004

Thomas Thoburn, Division Engineer
Great Lakes Division CSX Transportation
14955 Sprague Rd.
Strongsville Ohio, 44136

Mike Cameron, Staff Engineer

Great Lakes Division CSX Transportation
14955 Sprague Rd.
Strongsville Ohio, 44136

From: Dunn, Joseph [mailto:Joseph.Dunn@puc.state.oh.us]
Sent: Friday, September 25, 2009 11:29 AM

To: Kopke, Troy
Subject: Public Complaint and Crossing Inspections

Troy I left you a voicemail yesterday about a private crossing removed during track work in your territory. Can you let me know when the crossing will be restored? I have also attached my inspection report for the private crossing and three others in your area. As information this is a violation of the Ohio Revised Code to remove a private crossing and not restore it. (Section 4955.27 and .28)

Joe Dunn
PUCO/FRA

From: Kopke, Troy [mailto:Troy_Kopke@CSX.com]
Sent: Friday, September 25, 2009 11:33 AM
To: Dunn, Joseph
Subject: RE: Public Complaint and Crossing Inspections

The owners of the land, have not held up there end with the csx yearly agreement.....

Troy M. Kopke
Road Master Ashland
(440)-992-1785

From: Dunn, Joseph [mailto:Joseph.Dunn@puc.state.oh.us]
Sent: Friday, September 25, 2009 11:40 AM
To: Kopke, Troy
Subject: RE: Public Complaint and Crossing Inspections

Not sure what that means. I had put this complaint in abeyance for thirty days but if you are saying that the railroad is not restoring the crossing I will recommend that it be scheduled for a formal hearing in Columbus before the Commission with both parties attending.

Joe Dunn
PUCO/FRA

I am not saying that we are not restoring xing, to my knowledge agreement holder of the private road xing is required to pay csx for upkeep of xing.

Troy M. Kopke
Road Master Ashland
(440)-992-1785

October 16, 2009

Troy,

Attached are some inspection reports for part of your territory. Also what is the status of the private crossing 523-903g that was removed? Without a timely schedule to restore it I will have to recommend a formal hearing in Columbus before the Commission.

Joe Dunn
PUCO/FRA