

FILE

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Forrest A. Norman

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March 18, 2014

Docketing Division
Public Utilities Commission of Ohio
180 East Broad Street
Columbus, Ohio 43215-3793

RECEIVED DOCKETING DIV
2014 MAR 20 PM 3:23
PUCO

RE: In the Matter of the Investigation of
The Windham Road Grade Crossing
(141-752M), in the City of Newton Falls
Trumbull County, Ohio
Case No. 13-2269-RR-UNC

To Whom It May Concern:

Enclosed please find the original and one copy of an Interim Agreement - Proposed Entry between CSX Transportation, Inc. and City of Newton Falls, which includes Exhibits A, B, and C for filing with regard to the above-captioned matter. Please note that on March 18, 2014, a supplemental facsimile filing of this document was submitted to the Docketing Division of the Public Utilities Commission of Ohio.

Sincerely,

Forrest A. Norman

:tag
Enclosures

File No. 0055786.0344227

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Technician fl Date Processed MAR 20 2014

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Investigation of)	
The Windham Road Grade Crossing)	CASE NO. 13-2269-RR-UNC
(141-752M), in the City of Newton Falls,)	
Trumbull County)	Interim Agreement

PROPOSED ENTRY

In response to the Commission's Order of December 4, 2013, and the Commission's and parties' subsequent action in response, CSX Transportation, Inc. and the City of Newton Falls have entered into an interim agreement for the modification to the Order Regarding Barricades. The interim agreement is set forth in the e-mail correspondence (February 19, 2014, 9:09 a.m.) and its attachments, from Mr. Forrest Norman, as counsel for CSX Transportation, to Mr. William Wright, as OAG Section Chief, Public Utilities Section, and the concurring e-mail of Mr. A. Joseph Fritz, as Village Solicitor, Village of Newton Falls, (February 19, 2014 at 5:44 p.m.). The terms of the interim agreement as set forth therein are incorporated herein by reference.

CSX Transportation, Inc.

By: _____

Forrest A. Norman
Dickie, McCamey & Chilcote, P.C.
127 Public Square
Suite 2820 Key Tower
Cleveland, Ohio 44114
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City of Newton Falls

By: _____

A. Joseph Fritz
Law Director
19 North Canal Street
Newton Falls, Ohio 44444
(330) 872.0589 - Telephone
(330) 872.0544 - Facsimile

Exhibit A

From: Norman, Forrest

Sent: Wednesday, February 19, 2014 9:09 AM

To: Wright, Bill (bill.wright@puc.state.oh.us)

Cc: 'william.wright@puc.state.oh.us'; citymgr@ci.newtonfalls.oh.us; DeCesare, Amanda (Amanda_DeCesare@csx.com); Orben, Rusty (Rusty_Orben@csx.com); Marques, Jason (Jason_Marques@csx.com)

Subject: Newton Falls / Windham Road: Case No. 13-2269-RR-UNC

Re: Case No. 13-2269-RR-UNC

Mr. Wright,

In follow up to the telephone conference of February 18, 2014, the parties have agreed upon the following course of action.

1. The parties will implement the Proposed Modifications to the Order Regarding Barricades as circulated by CSXT on February 14, 2014, and as attached, again, to this e-mail, as further clarified by this e-mail. (Two attachments: "Proposed Modifications" and "Map").
2. Implementation will be for a six month test period, and, if the implemented plan performs adequately in accomplishing the purposes of clear and safe traffic re-direction and safe closure, will become permanent.
3. During the 6 month period following placement of the barriers, the City of Newton Falls will report any incidences of concern to CSX by e-mail notification to Amanda DeCesare at Amanda_DeCesare@csx.com <mailto:Amanda_DeCesare@csx.com> . CSX will be afforded an opportunity to address any such stated concerns. (Pedestrian trespassers do not constitute an "incident").
4. Within 2 weeks of this date, Newton Falls will provide CSXT with a representation of what constitutes adequate signage and signage placement on the barriers.
5. CSX will place "jersey barriers" along the north side of the tracks as described in the attachments, and place the signage indicated by the city.
6. CSX will place an additional permanent barrier along the property line on the south side of the tracks.
7. Newton Falls will cooperate with CSX in seeking funding from the PUCO Supplemental Fund, serving as applicant or co-applicant as necessary, as contemplated by paragraph 7 of the "Proposed Modifications" attachment.
8. This agreement constitutes approval by the City of Newton Falls to place the barriers in this manner, at the indicated locations, and grants permission to CSX to perform the work or cause the work to be performed.

In early September 2014 the parties shall reconvene at a date to be designated later, to either finalize this agreement, or modify it as may be required based on a showing of inadequate performance of the barriers.

Sincerely,
Forrest Norman
Counsel for CSXT

Forrest A. Norman, Esq.

Dickie, McCamey & Chilcote, P.C.

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ATTORNEYS AT LAW

**Pittsburgh | Charlotte | Cleveland | Columbus | Haddonfield NJ | Harrisburg | Lancaster SC | Philadelphia | Raleigh
NC | Steubenville Oh | Wheeling WV | Wilmington De**

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♻️ Please consider the environment before printing this email.

Exhibit B

Windham Road

Proposed Modifications to the Order Regarding Barricades

Proposal:

1. Placement of 2 barricades on the north side of the track, staggered as depicted in the attached photograph, enabling CSX vehicle access to the gated fence barricade, as further described below:
2. The first of the two barricades on the north side of the track will extend 15 feet in width, from the west side;
3. The second barricade on the north side of the tracks will be set back 20 feet from the first barricade, and will extend 10 feet in width from the east side;
4. The permanent fence (with locked gate) now along the north side of the tracks will remain in place;
5. The selection of the two barricades and any signage will be determined by the City of Newton Falls, (e.g. "jersey barrier" style, or guardrail style), in compliance with any highway regulations applicable;
6. Permanent barriers shall be placed along the southern side of the tracks, at the property line, which will be funded by CSX in an amount not to exceed \$3,000. The City of Newton Falls shall coordinate the installation and shall invoice CSX for the actual cost of the barricade;
7. Funding for the barricades on the north side shall be sought from the PUCO fund for improvements or other available public resources.

This proposal recognizes the unique characteristics of the site in conjunction with operational requirements of CSX particular to the location, and the City of Newton Falls' expressed concerns over traffic patterns and vehicle conduct.

Exhibit C

