

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

- - -

In the Matter of the Petition :
of CSX Transportation, Inc. :
to Close to Vehicular Traffic :
the Bloominggrove/New :
Winchester Road Grade : Case No. 14-0379-RR-UNC
Crossing (DOT No. 262042J), :
Located in Washington :
Township, Morrow County, :
Ohio. :

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PROCEEDINGS

Before Bryce A. McKenney, Attorney Examiner, at
the Public Utilities Commission of Ohio, 180 East
Broad Street, Room 11-C, Columbus, Ohio, called at
10:00 a.m. on Tuesday, March 3, 2015.

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1 APPEARANCES:

2 Dickie, McCamey & Chilcote, P.C.
3 By R. Leland Evans, Esq.
4 and Eric Thompson, Esq.
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7 On behalf of CSX Transportation, Inc.

8 Morrow County Prosecutor
9 By Charles S. Howland, Esq.
10 60 East High Street
11 Mt. Gilead, Ohio 43338

12 On behalf of Morrow County, Ohio.

13 Also Present:

14 Doug Weisenauer, Crawford County
15 Commissioner;
16 Rusty Orben, CSX Transportation, Inc.

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1 Tuesday Morning Session,
2 March 3, 2015.

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4 EXAMINER McKENNEY: Let's go on the
5 record.

6 Good morning. The Public Utilities
7 Commission of Ohio calls for hearing at this time and
8 place Case No. 14-379-RR-UNC, being In the Matter of
9 the Petition of CSX Transportation, Inc. to Close to
10 Vehicular Traffic the Bloomingrove/Winchester
11 Road Grade Crossing (Department of Transportation
12 No. 262042J), Located in Washington Township, Morrow
13 County, Ohio.

14 My name is Bryce McKenney, I'm the
15 Attorney-Examiner assigned by the Commission to hear
16 this case. Also with me this morning is Megan
17 Addison, she's a law clerk with the Commission's
18 Legal Department.

19 At this time I'd like to take the
20 appearances of the parties. On behalf of the
21 Company.

22 MR. EVANS: Thank you, Your Honor. Lee
23 Evans, here on behalf of CSX Transportation, along
24 with Eric Thompson from my office, and with us on
25 behalf of the Company today are Amanda Decesare and

1 Rusty Orben, both with CSX.

2 EXAMINER McKENNEY: Thank you. Yes,
3 sir.

4 MR. HOWLAND: Charles Howland, Morrow
5 County Prosecuting Attorney, on behalf of Morrow
6 County, Ohio.

7 EXAMINER McKENNEY: Thank you,
8 Mr. Howland.

9 Before we proceed any further, are there
10 any motions to address? Mr. Howland, if you have a
11 motion, this would be the time to make it.

12 MR. HOWLAND: Well, we would like to ask
13 for a motion to intervene so we can be heard in this
14 matter today.

15 EXAMINER McKENNEY: Thank you,
16 Mr. Howland.

17 Any objection to that?

18 MR. EVANS: There is no objection, Your
19 Honor.

20 EXAMINER McKENNEY: Motion to intervene
21 will be granted.

22 Pursuant to the entry I issued
23 previously in this case, we had discussed -- in
24 discussions at the prehearing conference, we
25 discussed admitting deposition testimony in place of

1 having these people come in as long as the railroad
2 certifies that there's no objection to the admission
3 of those.

4 Would you like to mark those depositions
5 at this time?

6 MR. EVANS: Your Honor, there has been
7 no opposition. We've filed with the Public Utilities
8 Commission the transcripts themselves, along with the
9 correspondence confirming the agreement with respect
10 to the admission of those exhibits, and -- or
11 depositions. It would be our understanding that they
12 are, based upon that agreement and Your Honor's
13 previous ruling, to be considered as if the witnesses
14 were here to testify today.

15 I don't know that we have them
16 separately marked as exhibits today because they're
17 on file, but we can certainly get a copy marked if
18 that's the way you would like us to proceed.

19 EXAMINER McKENNEY: Okay. I have a list
20 of the witnesses that you have filed. I just want to
21 make sure we go ahead and make sure we don't miss any
22 of them.

23 MR. EVANS: Sure.

24 EXAMINER McKENNEY: So I'm going to go
25 ahead and read through that list. I will mark them

1 as I notify. Please let me know if I miss any of
2 them.

3 The first one will be Patrick Duffner;
4 is that correct?

5 MR. EVANS: That's correct.

6 EXAMINER McKENNEY: That would be CSX
7 Exhibit 1.

8 (EXHIBIT MARKED FOR IDENTIFICATION.)

9 EXAMINER McKENNEY: Next I have Jeffrey
10 Sparks; is that correct?

11 MR. EVANS: That's correct.

12 EXAMINER McKENNEY: That will be CSX
13 Exhibit 2.

14 (EXHIBIT MARKED FOR IDENTIFICATION.)

15 EXAMINER McKENNEY: Next I have Steven
16 Brenneman.

17 MR. EVANS: That's correct.

18 EXAMINER McKENNEY: CSX Exhibit 3.

19 (EXHIBIT MARKED FOR IDENTIFICATION.)

20 EXAMINER McKENNEY: Dean Van Horn.

21 MR. EVANS: Correct.

22 EXAMINER McKENNEY: CSX Exhibit 4.

23 (EXHIBIT MARKED FOR IDENTIFICATION.)

24 EXAMINER McKENNEY: Scott Kent.

25 MR. EVANS: That's correct.

1 EXAMINER McKENNEY: CSX Exhibit 5.
2 (EXHIBIT MARKED FOR IDENTIFICATION.)

3 EXAMINER McKENNEY: Chief Brian
4 Satterfield.

5 MR. EVANS: That's correct.

6 EXAMINER McKENNEY: CSX Exhibit 6.
7 (EXHIBIT MARKED FOR IDENTIFICATION.)

8 EXAMINER McKENNEY: Chief Phillip
9 Jackson.

10 MR. EVANS: That's correct.

11 EXAMINER McKENNEY: CSX Exhibit 7.
12 (EXHIBIT MARKED FOR IDENTIFICATION.)

13 EXAMINER McKENNEY: Rick Fox.

14 MR. EVANS: That's correct.

15 EXAMINER McKENNEY: CSX Exhibit 8.
16 (EXHIBIT MARKED FOR IDENTIFICATION.)

17 EXAMINER McKENNEY: Next is Steven
18 Smith; is that correct?

19 MR. EVANS: That's correct.

20 EXAMINER McKENNEY: CSX Exhibit 9.
21 (EXHIBIT MARKED FOR IDENTIFICATION.)

22 EXAMINER McKENNEY: That's all the
23 subpoenas that I see listed in the docket. Is there
24 anyone else that you have?

25 MR. EVANS: No, Your Honor. That's a

1 complete list of both the subpoenas, as well as the
2 depositions that have been filed of record with the
3 PUCO.

4 EXAMINER McKENNEY: Okay. Mr. Howland,
5 is there any objection to the admission of these
6 exhibits?

7 MR. HOWLAND: No objection, Your Honor.

8 EXAMINER McKENNEY: Thank you. They
9 will each be so admitted into the record in this
10 proceeding.

11 I also see that there are two letters
12 indicating that there would be no objection from
13 Mr. Kidd on behalf of Crawford County Assistant
14 Prosecutor. I'd like to have those marked as CSX
15 Exhibit 10, CSX Exhibit 11.

16 (EXHIBIT MARKED FOR IDENTIFICATION.)

17 EXAMINER McKENNEY: Objection to the
18 admission of those, Mr. Howland?

19 MR. HOWLAND: No, Your Honor.

20 EXAMINER McKENNEY: They will also be
21 admitted.

22 Mr. Evans, is there anything further
23 from the railroad?

24 MR. EVANS: Yes, Your Honor. Depending
25 on the Hearing Examiner's wishes here, my thought was

1 to provide brief, in essence, opening comments
2 regarding kind of the order of proof today, as well
3 as what we believe the evidence will show in a brief
4 fashion, and call our one witness -- live witness
5 today, Ms. Decesare.

6 EXAMINER MCKENNEY: Thank you. It's
7 uncommon to have an opening statement, we usually
8 just take the witness, but if you would like to make
9 a brief statement I'd be happy to hear it.

10 MR. EVANS: Okay. Thank you, Your
11 Honor.

12 Briefly, first we appreciate the
13 understanding and agreement of the Hearing Examiner
14 and the Counties with respect to the submission of
15 the deposition testimony. We deposed, as you noted,
16 I think nine individuals, all properly noticed and
17 sworn under oath, and we -- particularly given the
18 weather as it turns out today, but we simply didn't
19 see a need to inconvenience those people here again
20 to come down for this live testimony. So we
21 appreciate that.

22 We believe that that testimony is
23 intended to address the issues that we heard and
24 listened carefully to when we attended the two public
25 hearings that Your Honor scheduled and conducted in

1 Morrow and Crawford County last summer.

2 My intent this morning is basically to
3 discuss the upshot of that testimony and how it fits
4 into the issue at hand under the Ohio Revised Code,
5 which it relates to there not being a demonstrable
6 need for this crossing. If I may just approach the
7 maps for a moment.

8 EXAMINER MCKENNEY: Sure.

9 MR. EVANS: We've marked as exhibits,
10 and we're going to have to renumber them, which we
11 will do as we get into them, but we marked as
12 exhibits a map of Morrow County as well as a map of
13 Crawford County. These were used during some of the
14 depositions that were taken.

15 Just to orient ourselves here, if I
16 don't kick it over, the tracks in question are up at
17 this far northwest corner of Morrow County. And I
18 apologize if the prosecutor -- can you see this okay?

19 MR. HOWLAND: Yes.

20 MR. EVANS: And you know where it is
21 actually.

22 MR. HOWLAND: Yes. I'm familiar with
23 the location, yes.

24 MR. EVANS: So the tracks that we're
25 talking about angle across the northwest corner here,

1 and essentially form this little triangle along with
2 the -- bordered between the Crawford County and
3 Morrow -- or, Marion County to the west.

4 We -- based upon what we heard at the
5 public hearing, and based upon the factors listed in
6 the Ohio Revised Code section, the depositions were
7 designed to primarily get at, address the question of
8 kind of that Factor No. 8 having to do with impact,
9 if any, upon emergency medical services, fire,
10 police, school, sort of the community in the vicinity
11 of a crossing as a whole, I guess you could say the
12 catchall Category 9 as well. And the rest of the
13 items, which we will go through this morning's
14 testimony under the statute, the first seven factors,
15 I believe we provided the evidence as exhibits to our
16 petition, but Ms. Decesare will testify this morning
17 with respect to those as well.

18 In a nutshell, addressing these issues,
19 we believe that the evidence will show both today and
20 upon review of the transcripts that in terms of EMS
21 and fire, as the Hearing Examiner knows, this
22 crossing is County Line Road, and so the north side
23 would be Crawford County, south side, Morrow County.
24 So just as you had two public hearings, it was
25 necessary for us to talk to representatives from kind

1 of both counties, and we did so.

2 The upshot of that is that on the
3 Crawford County side, the EMS response and fire
4 response comes from the Galion Fire Department. And
5 they already, to get out to the western portions on
6 the Crawford County side, would head west out of
7 Galion on one of several roads and cut down to that
8 area to get to this area to the west on Taylor Road,
9 which runs -- it's more visible on the Crawford
10 County map, but it runs north and south and comes
11 down into this triangular area that we're talking
12 about, intersects with County Line Road. So that's
13 the -- that is the route per their testimony that
14 they would already take.

15 There is one residence, as you know,
16 Mr. Fox's residence is just compassed north of the
17 crossing; so it's Crawford County side. It would be
18 a Crawford County response typically if they had a
19 fire or EMS issue.

20 And the record reflects that they have
21 actually had one or two issues over a number of
22 years, 10 or 15 years, to that residence. They have
23 gone on those instances down to County Line Road on
24 309 and 61, and then west and across this crossing.
25 But the -- the evidence will show through the

1 testimony of Chief Jackson that he is perfectly
2 comfortable with the route -- taking the route to
3 Mr. Fox's residence that would be similar to the rest
4 of the residences out there, which would involve
5 going west and then down Taylor Road, and back in
6 slightly on County Road -- County Line Road to
7 Mr. Fox's residence. He acknowledges that the -- any
8 slight addition in length is kind of offset by the
9 fact that there's no grade crossings in that route;
10 so there's no potential for being stopped by either a
11 moving or a stopped train, either at the crossing in
12 question or they would have had to have crossed a
13 crossing at 309 and 61. So -- and that's his
14 testimony both in relation to fire and EMS response
15 from the Crawford County side.

16 On the Morrow County side, the evidence
17 is, through EMS Chief Sparks and through the Iberia
18 Volunteer Fire Department and Assistant Chief Smith,
19 that their response to this northwest corner, that
20 little triangle area within Morrow County up to the
21 south side of County Line Road would be typically
22 from Iberia where the volunteer fire department
23 houses its trucks and they share a bay or rent a bay,
24 whatever their arrangement is, but out of that same
25 building is where the Morrow County EMS would respond

1 to this area. There are various stations throughout
2 the county where Morrow County EMS has locations.
3 The closest one to this area is in Iberia. So
4 they're starting in the same location.

5 The evidence will show, we believe, that
6 EMS testimony from Chief Sparks was clear that he
7 would travel up 30 to 31 to 32, which 32 has various
8 names, it's called Keifer Road in Morrow County, it's
9 got the County Road designation, 32, and if you take
10 the same road on up into Morrow County it's called
11 Iberia Road, but they're all one in the same. So his
12 testimony, we believe, shows that EMS-wise that is
13 how they would respond.

14 Assistant Fire Chief Smith said that
15 that is also a route that they would use in good
16 weather, or certainly could use in good weather. His
17 only concern was, as you'll see in his testimony, was
18 on a particularly snowy day he has some concern about
19 the extent to which the county roads are plowed as
20 compared to a state route.

21 His testimony in that regard, however,
22 and there's a letter which is in the Public Utility
23 Commission docket that was submitted as part of his
24 testimony, he looked at three different routes. On a
25 snowy day, he said they sometimes will take 309 from

1 Iberia over to 361 and 309 and go on up and go east
2 on County Line Road, which would involve this
3 crossing. They have done that before on bad weather
4 days.

5 But his testimony is that there are --
6 there is another route that is essentially the same
7 distance, I think it's three-tenths of a mile longer.
8 His time, as reflected in his testimony and in his
9 letter that he submitted to the PUCO, is that the
10 time involved, approximately eight minutes to get
11 there, is the same whether he would go the route I
12 just described or go west to State Route 100, which
13 is slightly into Marion County and go on up to County
14 Line Road and come in that way.

15 So we believe that the testimony
16 regarding fire, EMS response, be it from Crawford
17 County or Morrow County, is such that there are other
18 equally as good, if not in some instances better
19 because of the fact that there's no blocked crossings
20 or potentially blocked crossings, that there are
21 alternative routes that are just as good for EMS and
22 fire.

23 Quickly shifting to police, sheriff's
24 department, that type of response. I think it's
25 clear, as we understand from talking to both county

1 sheriffs, that on any given day at any given time
2 they typically have several deputy sheriffs out in
3 cruisers cruising their county. Although they
4 roughly divide them up into sort of territories that
5 they are nominally assigned to, the testimony is that
6 because of events and responding to things, that at
7 any given moment they could be at any point really
8 within their jurisdiction.

9 So it becomes -- there's not a defined
10 route that they would be taking if there was some
11 need to get to this corner or in the vicinity of this
12 corner if it's on the Crawford County side. But what
13 is clear from their testimony, and what we believe
14 the evidence would show, is that they -- there is
15 always a route available, I mean, and they -- they
16 can always get to point -- from Point A to Point B.

17 And they acknowledge that there is some
18 certainty, if this crossing were to be closed
19 pursuant to the PUCO's decision, they would know that
20 this is a closed crossing and they would plan their
21 route accordingly. They would not have to have that
22 potential situation of trying to use this route,
23 getting there, finding there to be either a moving
24 train or a temporarily stationary train.

25 Regarding the farming in the area, there

1 was some testimony regarding that at the Public
2 Utilities Commission, so we deposed -- public
3 hearing. So we deposed Mr. Fox about that, because
4 in addition to being a resident very close to the
5 crossing, he also farms a considerable number of
6 acres on his property and is familiar with the
7 farming operations in the area.

8 We believe the evidence shows, based
9 upon his testimony, that first of all in terms of his
10 operation, if folks come in as they do to pick up
11 crop, which we understand to be primarily hay, that
12 they come in usually in large pickup trucks and --
13 and trailers, and they actually pull in his driveway.
14 This is an aerial photograph of the crossing, and
15 this being Mr. Fox's driveway that leads back to his
16 residence. They pull back into there, are able to
17 turn around, get loaded up and pull back out.

18 He's also aware that there are larger
19 farming operations west of him out County Line Road
20 west of Taylor Road. And his testimony is that he
21 knows that those farming operations have semis come
22 in currently to pick up those crops, and that the
23 typical -- you know, weather permitting, the typical
24 procedure for that involves taking the semi actually
25 out onto the field, getting loaded up such that

1 they're able to turn around and come out head first
2 and head whichever direction. Our point, I guess,
3 being that those trucks are already operating under
4 existing conditions in and about the roads that are
5 out in this northwest corner of the county.

6 Mr. -- we -- otherwise, the evidence
7 will show that Mr. Fox, you know, his primary concern
8 was emergency and fire response. His testimony, you
9 will find, we believe the evidence is, that he is --
10 if the chief -- Chief Jackson from Galion Fire and
11 EMS is satisfied with his ability to respond, then he
12 would be satisfied with the ability to respond.

13 He pointed out that there may be
14 actually some advantages to him to closure in terms
15 of fewer -- and the train horns would not be as close
16 to his residence, it would be more private back
17 there. And he has found that there is some debris
18 that -- with cars -- that he testified was primarily
19 from cars passing through that people would use this
20 currently sometimes as a dump, and he believes that
21 that may decrease if the traffic through that area is
22 decreased as a result of closure. So he sees it
23 somewhat, I suppose, as a mixed bag. We believe
24 that's the -- the evidence from Mr. Fox, but the
25 evidence is clear that he is the only nearby property

1 owner in the vicinity of the crossing.

2 I think I have touched on the main --
3 oh, school transportation. We talked to the
4 transportation directors of both the schools --
5 school districts; Northmor Schools on the northern
6 part of Morrow County and the Crawford City Schools
7 on the Crawford side.

8 The evidence, we believe, will show that
9 the Crawford side -- well, first of all, neither
10 district as of the time of the depositions was using
11 the crossing for a school bus use, normal routes.
12 The Crawford County bus transportation director
13 testified that -- I mean, there's some history there
14 that precedes him, but it appeared to him that they
15 actually have consciously, based upon looking at how
16 the routes run, consciously routed around this
17 crossing.

18 The transportation director from
19 Northmor did not say that that was a specific
20 strategy to route around it. He did, however,
21 testify, having been a bus driver himself -- and I
22 think this is of some note in terms of the
23 crossing -- that in order for a school bus to square
24 up at this crossing, no matter whether you're going
25 from east to west on County Line Road or west to

1 east, it's necessary to square up, that you have to
2 essentially go left of center in a school bus in
3 order to be able to get to the point where you have
4 enough room to see. So that's part of, we believe,
5 his testimony, and it exemplifies part of the kind of
6 underlying safety issues related to this particular
7 crossing.

8 The only other point I would make, Your
9 Honor, because there was a little bit of testimony
10 about this, and as Your Honor knows, I think, located
11 on the northwest side of the crossing there is a
12 small substation, I guess is the term I would use,
13 related to the underground pipelines that run in that
14 area.

15 The evidence shows, first of all, that
16 that's been there -- according to Mr. Fox who's lived
17 where he lives for 20-some years, this has been there
18 for somewhere around 10 or 12 years. There's never
19 been an incident of any kind related to that. He's
20 never been told that there is more likelihood of an
21 incident there than there would be perhaps anywhere
22 along the pipeline.

23 The same is true with respect to the
24 county fire and EMS personnel that were deposed, that
25 they're not aware of any -- they've never been

1 advised of any particular concerns in that regard, or
2 been provided any specific additional training or
3 things they need to be aware of with respect to that
4 particular location. Of course, if something
5 happened and they needed to get there, the response
6 route to that location, I've already addressed in
7 terms of it would be similar to getting to Mr. Fox's
8 residence, whether it be Crawford County responding
9 or Morrow County responding up into this area and
10 coming across to the location where the substation is
11 located.

12 So we believe that those are -- the
13 evidence will show those things, either in the form
14 of testimony from Ms. Decesare today or in the
15 testimony from the deponents admitted pursuant to
16 deposition, which we understand will be given the
17 same weight and credence as if they came in here
18 today based upon the agreement.

19 So with that, I would close, and unless
20 you have any questions or anything further you want
21 to do, we would call our first witness.

22 EXAMINER McKENNEY: You may call your
23 first witness.

24 MR. EVANS: Call Amanda Decesare.

25 EXAMINER McKENNEY: Before you sit, I'm

1 going to have you stand and raise your right hand.

2 (Witness placed under oath.)

3 EXAMINER McKENNEY: Thank you. Be
4 seated.

5 I will have you state your name for the
6 record.

7 THE WITNESS: Amanda Decesare. Do you
8 have the spelling of that? D-e-c-e-s-a-r-e.

9 MR. EVANS: Your Honor, do you mind if I
10 do this from a seated position?

11 EXAMINER McKENNEY: No, absolutely not.

12 MR. EVANS: It will help me to be able
13 to read my notes here.

14 - - -

15 AMANDA DECESARE,
16 being by me first duly sworn, as hereinafter
17 certified, deposes and says as follows:

18 DIRECT EXAMINATION

19 BY MR. EVANS:

20 Q. You've already indicated your name,
21 Ms. Decesare. Would you state your residence
22 address?

23 A. 8952 Crimson Oak Drive, Florence,
24 Kentucky 41042.

25 Q. And by whom are you employed?

1 A. CSX Transportation.

2 Q. And what is your business address there?

3 A. 500 Meijer, M-e-i-j-e-r, Drive,
4 Suite 305, Florence, Kentucky 41042.

5 Q. Can you just tell us briefly about your
6 educational background?

7 A. I have a Bachelor's in Construction
8 Management and an Associate's in Civil Engineering
9 Technology from Michigan Tech University.

10 Q. Thank you. And you've indicated you're
11 employed by CSX. What is your job title at this
12 time?

13 A. Project Manager-Public Projects.

14 Q. And approximately how long have you been
15 in that position?

16 A. About three years.

17 Q. And in a nutshell, what are your job
18 duties associated with that?

19 A. Coordination of construction projects
20 that are mostly sponsored by state and local agencies
21 that affect the railroad.

22 Q. Okay. And in that capacity, do you have
23 a particular territory for which you're responsible?

24 A. I cover five states; Michigan, Ohio,
25 Indiana, Illinois, and Kentucky.

1 Q. And you mentioned Ohio. Does -- your
2 territory within Ohio, I assume, does include the
3 grade crossing located on County Line Road which is
4 on the county line dividing Crawford County and
5 Morrow County?

6 A. Correct.

7 Q. And have you been to this particular
8 crossing as part of your professional duties?

9 A. Yes.

10 Q. How many tracks comprise that particular
11 crossing?

12 A. Two.

13 Q. Have you driven across this crossing
14 from both directions in a motor vehicle while you
15 were there?

16 A. Yes.

17 Q. Ms. Decesare, what county is the
18 crossing itself located in, as you understand it?

19 A. Morrow County.

20 Q. And do you have an understanding as to
21 whether the properties on either side of County Line
22 Road are either in Crawford County or Morrow County?

23 A. Yes.

24 Q. What's your understanding?

25 A. North of the road is Crawford County,

1 and south is Morrow County.

2 Q. Okay. I'm going to show you a few
3 photographs just for the record. I need to renumber
4 things just a little bit as we go. I believe the
5 last -- Your Honor's last exhibit was 11.

6 EXAMINER McKENNEY: That's correct.

7 BY MR. EVANS:

8 Q. So I'm going to label one of these as
9 CSXT Exhibit 12.

10 Just for the record, Amanda, are you
11 able to -- Counsel, this is that same aerial view.

12 MR. HOWLAND: Oh, that's fine,
13 Mr. Evans. No objection.

14 MR. EVANS: All right.

15 EXAMINER McKENNEY: Mr. Evans, I'm going
16 to mark it as Exhibit 12. Do you have an 8-by-12
17 copy of that if we need to introduce these into the
18 record?

19 (EXHIBIT MARKED FOR IDENTIFICATION.)

20 MR. EVANS: We do. Do we have it with
21 us?

22 EXAMINER McKENNEY: We don't need it
23 now.

24 MR. EVANS: We do. Everything here we
25 have in -- we have these in their original size. We

1 don't have an 8-by-12 as to the maps.

2 EXAMINER MCKENNEY: That's okay. Okay.

3 BY MR. EVANS:

4 Q. In any event, showing you the aerial
5 photograph that we've marked as Exhibit 12 for
6 identification, are you able to tell us what that is?

7 A. That is the crossing in question.

8 Q. All right. In that crossing photograph,
9 we can see the two tracks that are located there.

10 A. Uh-huh.

11 Q. You have to probably say yes or no.

12 A. Yes.

13 Q. And is it your -- do you have an
14 understanding as to where Mr. Fox's residence is
15 located?

16 A. Yeah. That gray driveway on the north
17 of the track.

18 Q. Leads to his residence?

19 A. Yes.

20 Q. Okay. And this little square here, do
21 you have an understanding as to what that is?

22 A. That is the Columbia Gas substation.

23 Q. Okay.

24 MR. EVANS: With the Hearing Examiner's
25 permission, I would just briefly mark three

1 additional photographs, I suppose it would be 13, 14,
2 15.

3 EXAMINER McKENNEY: Correct, they'll be
4 so marked.

5 (EXHIBITS MARKED FOR IDENTIFICATION.)

6 BY MR. EVANS:

7 Q. To show you these briefly, can you see
8 those there?

9 A. Uh-huh.

10 Q. Let's start -- just take them
11 sequentially. Exhibit 13, can you tell us what that
12 is?

13 A. That is the road going on the north side
14 of the tracks towards the -- I'm sorry, on the south
15 side of the tracks towards the east.

16 Q. Okay. And there is in this photograph
17 to the extent the photographs --

18 MR. HOWLAND: Excuse me a minute,
19 Mr. Evans. Your Honor, is it okay if I stand here?
20 I can't see the pictures from where I'm sitting.

21 EXAMINER McKENNEY: Absolutely.

22 MR. EVANS: My apologizes.

23 MR. HOWLAND: Sorry to interrupt your
24 presentation.

25 EXAMINER McKENNEY: That's quite all

1 right.

2 BY MR. EVANS:

3 Q. So you said that this is on the south
4 side of the tracks?

5 A. South side of the tracks.

6 Q. Looking in the easterly direction?

7 A. Correct.

8 Q. And to the extent it is visible in the
9 photographs, is there a difference in grade or height
10 as we look at the land that exists between the road
11 and where the tracks are located?

12 A. Yes. The road is higher, and there is
13 also a mound between the road and the track.

14 Q. Okay. And you said you've driven this
15 area previously, correct?

16 A. Yes.

17 Q. As you're coming from east to west, so
18 towards us in the picture heading towards the
19 crossing, as you recall, from a typical vehicle are
20 you able to see the tracks or see something coming
21 along the tracks as you approach this crossing from
22 that direction?

23 A. Not until you start to make that turn to
24 get -- so you can see past the mound.

25 Q. Okay. And then just for the record,

1 I've marked as Exhibit 14 another photograph. Can
2 you see that?

3 MR. HOWLAND: I'm good, Mr. Evans.

4 BY MR. EVANS:

5 Q. Are you able to identify kind of what
6 direction we're looking here in this picture?

7 A. That would also be the south side of the
8 track. That would be going towards the west, yeah.

9 Q. Okay. And there's an arrow here. Is
10 that -- is this the bend that leads right up to where
11 the tracks are located?

12 A. Yes.

13 Q. As we look at this picture, you
14 described the raised land or mound as you're
15 approaching from east to west. Would it be
16 essentially to your right from the location where
17 this picture was taken?

18 A. Yes, in the bottom right corner of that
19 picture.

20 Q. And finally, just we marked Exhibit 15,
21 and are you able to indicate what direction we're
22 looking here?

23 A. That is the north side of the tracks
24 looking towards the east.

25 Q. Okay. And there -- we can see the two

1 tracks -- sets of tracks in this particular picture;
2 is that correct?

3 A. Yes.

4 Q. And do you know -- and we'll get to this
5 again a little bit later if you don't -- but as part
6 of the diagnostic survey, if not otherwise, was the
7 distance between those tracks measured?

8 A. Yes. It was around 52 feet.

9 Q. Okay. And just from your experience
10 dealing with grade crossings in your job with CSX, is
11 that a wider gap than you sometimes or maybe even
12 often see at a grade crossing?

13 A. Yes, wider.

14 Q. And do -- as you understand it, these
15 two tracks, how would you describe them, are they
16 through tracks? Are they both through tracks? How
17 are they used?

18 A. They're both through tracks for mixed
19 freight.

20 Q. Among your job duties, Ms. Decesare, do
21 you -- generally or are you often at least involved
22 in attending diagnostic surveys at Ohio grade
23 crossings?

24 A. Yes.

25 Q. And just for the record, what is a

1 diagnostic survey?

2 A. It is a meeting at a grade crossing to
3 determine if there should be any improvements, if the
4 crossing should be closed or if it should remain the
5 same and is attended by the road authority, the PUCO,
6 the ORDC, and CSX.

7 Q. And to your knowledge, was a diagnostic
8 survey done in connection with this particular
9 crossing on County Line Road?

10 A. Yes.

11 Q. And did you personally attend that
12 particular diagnostic survey?

13 A. I did not. It was attended by my
14 predecessor, Karen Murphy, who has since retired.

15 MR. EVANS: Your Honor, I'd like to show
16 the witness what I think we are up to, Exhibit 16,
17 which would be the diagnostic review for this
18 particular crossing.

19 EXAMINER McKENNEY: It will be so
20 marked.

21 (EXHIBIT MARKED FOR IDENTIFICATION.)

22 EXAMINER McKENNEY: You can approach.

23 MR. EVANS: Would Your Honor like a
24 copy?

25 EXAMINER McKENNEY: Please, if you have

1 one. Thank you.

2 BY MR. EVANS:

3 Q. Ms. Decesare, I've handed you what has
4 been marked as CSXT Exhibit 16 for identification. I
5 think you indicated that you had reviewed a
6 diagnostic survey or diagnostic review team survey in
7 connection with this crossing; is that correct?

8 A. Yes.

9 Q. And is this the survey that you reviewed
10 in connection with this crossing?

11 A. Yes.

12 Q. And is there a -- a date indicated with
13 respect to the survey?

14 A. November 8th, 2011 -- 2011.

15 Q. And just to ask you a few questions
16 about the survey itself. There is a listing of names
17 under the -- on the first page of Exhibit 16, it says
18 under On-Site Review Team. From your experience in
19 attending these over time, would that typically be a
20 listing of the individuals that attended the survey?

21 A. Yes.

22 Q. Does the team survey have a section
23 where they describe the existing traffic control
24 devices at the -- at this crossing?

25 A. Yes.

1 Q. And -- and at the time of this survey,
2 this crossing involved what traffic control devices?

3 A. Crossbucks, signs, and number of track
4 signs, and the CSX inventory sign that goes on the --
5 says what the DOT number is on the post.

6 Q. Okay. Does the -- does the form also
7 include information regarding hazard data as of the
8 time the form was prepared?

9 A. Yeah. As of the time of the diagnostic,
10 the hazard ranking of the crossing was 454 in the
11 state of Ohio out of all the public -- or all the
12 public crossings in Ohio.

13 Q. Okay.

14 A. But that is currently updated to be
15 110th out of 5,800 crossings.

16 Q. So your understanding -- just to make
17 sure the record is clear, you understand that in the
18 state of Ohio there are approximately 5,800 public
19 grade crossings?

20 A. Yes.

21 Q. And is it correct that you recently
22 checked with the State to determine where this
23 crossing is currently ranked; is that correct?

24 A. Yes. I got that from ORDC last week.

25 Q. And your understanding is it's currently

1 110?

2 A. Yes.

3 Q. And this form that we're talking about,
4 the survey form, also includes information
5 regarding -- category is entitled Railroad Data?

6 A. Yes.

7 Q. And among other things, that lists the
8 number of trains that would go through this area?

9 A. Yes.

10 Q. And as of the time of the survey, do you
11 know how many trains were indicated to go through
12 here?

13 A. It was 20 then.

14 Q. And has there been any change based upon
15 your having looked into that since that time as of
16 today?

17 A. For the month of February, the average
18 was 26.6 trains per day.

19 Q. Okay. There's also on this form a
20 section that provides information regarding roadway
21 data; is that correct?

22 A. Yes.

23 Q. And it will obviously speak for itself,
24 but there is an indication under Roadway Data as to
25 vehicle speed at this location; is that right?

1 A. Yes.

2 Q. And what is the indicated vehicle speed?

3 A. Fifty-five miles an hour, and there is a
4 note about 15-mile-an-hour temporary condition.

5 Q. Okay. And jumping back to the railroad
6 data for a moment, at the time of the survey, is
7 there an indication as to what the track speed is at
8 this location?

9 A. Sixty miles an hour.

10 Q. And from your experience with the
11 railroad, do you understand that that would be a
12 maximum speed for trains coming through here?

13 A. Correct.

14 Q. And would that speed vary and
15 potentially be slightly less than that depending upon
16 the nature of the cargo that was being hauled?

17 A. Yeah. The typical train speed would be
18 between 55 and 60 miles an hour.

19 Q. There is an area on the third page of
20 Exhibit 16 that talks about Type of Development, and
21 there is a box checked. Can you tell us what that
22 box says?

23 A. "Open Space."

24 Q. And would that be consistent with your
25 understanding in having been to this crossing that it

1 would be considered more of a rural crossing with
2 farmland surrounding it?

3 A. Yes.

4 Q. To your knowledge, aside from the
5 substation that I referenced in my earlier -- related
6 to gas line referenced in my earlier remarks, are
7 there any commercial enterprises located adjacent to
8 near this particular crossing?

9 A. Commercial, no. The -- there are
10 residences and the Fox farm.

11 Q. Right. And then we won't get into this,
12 but does -- does the form then contain some
13 measurements and drawings that you understand that
14 would be used if steps were going to be taken to
15 install flashers and gates?

16 A. Yes.

17 Q. And this document is signed off on by a
18 number of people; is that correct?

19 A. Yes, one representative from each party.

20 Q. And -- and you touched on this when you
21 described what a diagnostic survey is, but is there a
22 place on this form to indicate whether there was
23 consideration or discussion that this crossing is a
24 candidate -- as to whether this crossing is a
25 candidate for closure?

1 A. Yes. On Page 3 the question is asked,
2 "Is it the consensus of the Diagnostic Review Team
3 that this is a potential closure project," and the
4 box is checked "Yes."

5 Q. And under that it says, "Explain
6 reasons." And what does it say?

7 A. "2 residents."

8 Q. On the next page, Page 4 of Exhibit 16,
9 is there also a category that says, "Crossing
10 Consolidation or Closure"?

11 A. Yes.

12 Q. What does it say under that?

13 A. That it was discussed.

14 Q. Ms. Decesare, did you attend the two
15 public hearings conducted in this matter last summer?

16 A. Yes.

17 Q. And one of those was in Morrow County
18 and one in Crawford County, correct?

19 A. Correct.

20 Q. Do you recall that there was some
21 testimony given at these public hearings concerning a
22 problem involving blocked crossings in this area, and
23 in particular a blocked crossing at this particular
24 crossing?

25 A. Yes.

1 Q. To the best of your knowledge on behalf
2 of CSX, did anything related to any issue with
3 blocked crossings or the issuance of an occasional
4 citation to CSX as a result of -- or by local law
5 enforcement as a result of a crossing being blocked
6 for longer than the statutory period, did any of that
7 have anything to do, as you understand it, with this
8 crossing being evaluated at the diagnostic survey or
9 being considered for closure?

10 A. No. It had nothing to do with the
11 consideration for closure, and I believe that the
12 issue with the blocked crossings was not there at the
13 time of the diagnostic.

14 Q. And since that timing -- since you've
15 been involved with this -- this issue, attended these
16 hearings and received correspondence related to
17 potential closure, are you aware of any -- any
18 involvement concerning the blocked crossing issue as
19 it relates to the potential closure for this
20 crossing?

21 A. No. I don't believe there's any
22 relationship between the blocked crossing issue and
23 the closure issue.

24 Q. And there was some comment at public
25 hearing as to some thought that the railroad wanted

1 to use the extra -- the second track here as a siding
2 in some fashion if the crossing was closed. Does the
3 railroad have any intention of using that -- either
4 track as a siding or to create some type of extra
5 siding or track at this location?

6 A. Not that I'm aware of.

7 Q. Ms. Decesare, after the diagnostic
8 survey was done, and without getting into any
9 specific details here today, but do you know if there
10 was a combined effort involving CSX and the Ohio Rail
11 Development Commission to essentially offer
12 incentives to the County to close the crossing?

13 A. Yes, there was.

14 Q. Have you, as part of your file related
15 to this matter, seen and reviewed various letters
16 sent to the County related to this general issue?

17 A. Yes.

18 Q. And is it your understanding as we sit
19 here today that to this point the County has not been
20 interested in any of those discussions, and the
21 crossing currently remains open?

22 A. Correct.

23 Q. And that was the status at the time the
24 Petition for Closure was filed?

25 A. Correct.

1 MR. EVANS: Just for the record, I would
2 like to -- so I think we're up to 17, 18 and 19 I
3 have. With the Hearing Examiner's permission, I'd
4 like to mark as exhibits -- get it right here -- 17,
5 18 and 19, three letters sent at various times to
6 Morrow County regarding closure -- potential closure.

7 EXAMINER MCKENNEY: It will be so
8 marked.

9 (EXHIBITS MARKED FOR IDENTIFICATION.)

10 BY MR. EVANS:

11 Q. So just for the record, Ms. Decesare, I
12 put in front of you three letters identified for
13 identification as exhibit -- CSX Exhibits 17, 18 and
14 19. Are these the letters that you have seen over
15 time related to discussions with Morrow County
16 regarding closure of the crossing?

17 A. Yes.

18 Q. And just for the record, the April 20th,
19 2012 letter, which is Exhibit 17, am I correct that
20 you're copied on that letter?

21 A. Yes.

22 Q. And the other two letters, Exhibits 18
23 and 19, it doesn't appear you're copied on those, but
24 is someone from CSX, specifically Rusty Orben, copied
25 on those two letters?

1 A. Yeah. Rusty and Chuck Gullackson, who
2 was my boss's boss at the time, both copied.

3 Q. Okay. And just for the record, to
4 identify them, Exhibit 17 is a letter dated April 20,
5 2012, to Mr. Randy Bush at Morrow County, County
6 Engineer, and it's from the Ohio Rail Development
7 Commission?

8 A. Correct.

9 Q. And Exhibit 18 is an October 25, 2013,
10 letter to Mr. Whiston, the chairman of the Morrow
11 County Commissioners, from the Ohio Rail Development
12 Commission, correct?

13 A. Correct.

14 Q. And finally the Exhibit 19 is a letter
15 dated December 24, 2013, again, to Mr. Whiston from
16 me actually as counsel for CSX, correct?

17 A. Correct.

18 Q. Okay. Do you have an understanding on
19 behalf of CSX as to whether the -- this crossing
20 would likely be placed in line for the installation
21 of flashers and gates if this crossing is not
22 ultimately closed pursuant to this procedure?

23 A. Yes, it would be.

24 Q. And just for the record, is it your
25 understanding that this -- that the installation of

1 flashers and gates would involve CSX funds, state
2 and/or federal funds, or some combination of those?

3 A. State and/or federal.

4 Q. Would there be some potentially CSX
5 money involved?

6 A. If it was a PUCO-hosted project then we
7 would have a contribution, but I believe this would
8 be an ORDC-hosted project because of the previous
9 lead on the project.

10 Q. Irrespective, Ms. Decesare, of the
11 breakdown on the payment of these costs associated
12 with flashers and gates, based upon your experience
13 in public projects such as this, can you provide us
14 with a typical or average cost range associated with
15 the installation of flashers and gates?

16 A. \$200- to \$300,000.

17 Q. And it varies depending upon?

18 A. The local track.

19 Q. I do want to ask you a few questions
20 just to assist the -- in making sure the record is
21 clear as far as the location of some of the primary
22 landmarks in this area that are the subject of
23 deposition testimony that's been submitted, as well
24 as perhaps a little of your testimony in a few
25 moments.

1 A. Okay.

2 Q. We have, as you know, two county maps;
3 one for Morrow County, one for Crawford County. Have
4 you had a chance prior to right now to take a look at
5 those?

6 A. Yes.

7 MR. EVANS: And just for the record,
8 Exhibits 20 and 21 -- and if it's all right with the
9 Hearing Examiner, I would mark the one that's on the
10 easel here, which is the Morrow County map, as CSXT
11 Exhibit 20.

12 EXAMINER McKENNEY: It will be marked
13 CSX Exhibit 20.

14 (EXHIBIT MARKED FOR IDENTIFICATION.)

15 MR. EVANS: For the record, we'll mark
16 the Crawford County map as Exhibit 21.

17 EXAMINER McKENNEY: It will be so
18 marked.

19 (EXHIBIT MARKED FOR IDENTIFICATION.)

20 MR. EVANS: Thank you. Is it all right
21 if the witness just steps down so she can make some
22 markings on the map?

23 EXAMINER McKENNEY: You may.

24 BY MR. EVANS:

25 Q. Ms. Decesare, I've got both maps on the

1 easel there. And so as we go through these,
2 depending on what landmark we're looking to kind of
3 circle and highlight, it's going to be necessary I
4 think for you to switch a little bit between maps.

5 A. That's fine.

6 Q. But if you could indicate just for the
7 record on -- based upon your knowledge and experience
8 of being up in this area, where the State Route 309
9 or 61 grade crossing is located that would be just a
10 little bit west or northwest of this crossing. You
11 can do that on either map.

12 A. I've just got to get my bearings here.
13 State Route 309 is here, but it would cross the
14 tracks up here (indicating).

15 Q. My eyes aren't good enough to make sure.
16 Okay. Yeah.

17 A. And it's also shown here (indicating).

18 Q. All right. So on both county maps, you
19 have -- am I correct you've circled that particular
20 crossing?

21 A. Yes.

22 Q. And are you able to point out where
23 County Line Road is located on both maps? Perhaps
24 there's a label there that you can circle where it
25 says County Line Road or County Road 8.

1 A. This is the road here --

2 Q. Okay.

3 A. -- and that's the crossing (indicating).

4 And it would also leave right here the
5 crossing, the circle.

6 Q. Okay. And using the Morrow County map
7 that I described earlier, sort of a triangular area
8 created by the borders of the county and the tracks,
9 would you be able to just kind of highlight that
10 corner area with the marker?

11 (Witness complies with request.)

12 Q. Thank you. There's also a crossing
13 that's referenced in our petition as being an
14 alternate crossing called Biddle Road, which would
15 only be I think visible on the Crawford County map.
16 Can you highlight that with perhaps circling it if
17 it's labeled already?

18 A. Yes.

19 (Witness complies with request.)

20 A. Right here.

21 Q. And there's also a road that's part of
22 our petition as an alternate crossing called Keifer
23 Road that I referenced earlier as also County Road
24 32, or in the other county Iberia Road. Can you
25 locate that?

1 (Witness complies with request.)

2 Q. So on the Morrow County map, just for
3 the record, you've circled where Keifer Road is?

4 A. Yes.

5 Q. Did you circle the crossing or the road?

6 A. I circled the road.

7 Q. And Keifer Road crosses this particular
8 crossing, correct, or this particular set of tracks?

9 A. Yes.

10 Q. And what direction would that be from,
11 the --

12 A. Southwest.

13 Q. And we talked briefly about Biddle Road.
14 Where would that be in relation to the crossing that
15 is being considered for closure?

16 A. That would be northwest -- or,
17 northeast.

18 Q. And in connection with the testimony by
19 deposition of Morrow County EMS and fire personnel,
20 there's reference to County Roads 30, 31 and 32. Are
21 you able to find those on the -- in the vicinity
22 of --

23 A. Yes.

24 Q. -- Iberia, and going north and label
25 those to show that -- their general location?

1 A. 30, 31 and 32 (indicating).

2 Q. So looking at that, based upon -- if I
3 ask you to assume or understand that the -- both the
4 EMS and fire personnel who would begin their run in
5 Iberia have testified that they would take 30 to 31
6 to 32 potentially to get to this area, I am correct
7 that they would be taking 30 north out of Iberia; is
8 that correct?

9 A. Yes.

10 Q. And then there's -- there would be a
11 left turn on 31 to go west for a short distance.

12 A. Right.

13 Q. And then it would be a right turning to
14 north onto --

15 A. 32.

16 Q. -- 32, which is also Keifer Road,
17 correct?

18 A. Correct.

19 Q. All right. Now, there is in some of the
20 testimony that's been provided a reference to Taylor
21 Road that comes down and intersects with County Line
22 Road kind of west of the crossing. Can you find that
23 on the Crawford County map?

24 A. Yes, I circled it.

25 Q. And you circled that.

1 Finally, can you, I guess, put an "X" at
2 the basic location where Mr. Fox's residence would be
3 found? I guess you know he's in Crawford County; so
4 wherever you can put an "X" there.

5 A. It would be about right there
6 (indicating).

7 Q. Okay. Just for the record, did you put
8 an "X"?

9 A. I put an "X" and wrote "Fox" next to it
10 on the Morrow County map.

11 Q. Great. Okay. Thank you. I just wanted
12 to make sure that those particular geographic
13 locations were highlighted.

14 Have you reviewed the Petition for
15 Closure that CSX filed in this matter?

16 A. Yes.

17 Q. This is our last exhibit of the day.
18 I'm going to mark it -- where are we at?

19 MR. THOMPSON: 22.

20 MR. EVANS: With the Hearing Examiner's
21 permission, CSX Exhibit 22 would be the Petition for
22 Closure.

23 EXAMINER McKENNEY: So marked.

24 (EXHIBIT MARKED FOR IDENTIFICATION.)

25 EXAMINER McKENNEY: I have a copy of

1 that.

2 MR. EVANS: You do, okay.

3 THE WITNESS: Thank you.

4 BY MR. EVANS:

5 Q. Ms. Decesare, I've placed in front of
6 you what we've marked as exhibit -- CSX Exhibit 22
7 for identification. Do you recognize that?

8 A. Yes.

9 Q. And just for the record, what is it?

10 A. The Petition for Closure that was filed.

11 Q. And to the best of your knowledge, is
12 the factual information contained in that petition
13 regarding the County Line Road crossing and
14 surrounding crossings true and correct to the best of
15 your knowledge?

16 A. Yes.

17 Q. As of the time of the petition?

18 A. At the time of petition, yes.

19 Q. And just to be clear, you've indicated
20 previously that the train count at this area would be
21 different now than it was at the time of the
22 petition?

23 A. Yes. It would be increased to 26.6
24 trains per day.

25 Q. Okay. And then -- and feel free,

1 Ms. Decesare, to as necessary consult the petition if
2 you need to. But directing your attention generally
3 to the factors pertinent to closure of a rural
4 crossing such as this under Revised Code 4907.474 and
5 475, are you familiar with the daily vehicular
6 traffic count for the County Line Road crossing?

7 A. Yes, 121 to 184 vehicles per day.

8 Q. And as reflected in the petition, in a
9 nutshell, how was that information obtained? Where
10 was it obtained?

11 A. From the PUCO's database, which contains
12 information about road crossings, and I think there
13 was also --

14 Q. Also the US DOT --

15 A. Yeah.

16 Q. -- database as well?

17 A. Yes.

18 Q. And similarly, what is the daily train
19 count? We've basically discussed this, but currently
20 the daily train count you said is between 26 and 27,
21 correct?

22 A. Correct.

23 Q. At the time of the petition, it was
24 something less than that?

25 A. It was 20 at the time of the petition.

1 Q. Okay. And I want to talk to you a
2 little bit about daily vehicular and train counts at
3 alternate crossings. But before we discuss that, I
4 guess we should establish what alternate crossings
5 have been identified in the petition.

6 First thing is the statute itself talks
7 in terms of the number of not so much alternate
8 crossings, but crossings within one linear mile.
9 With that in mind, which crossings would be -- that
10 are identified in the petition would be considered
11 within one linear mile?

12 A. The Biddle Road crossing.

13 Q. And approximately how far is that from
14 the county road -- County Line Road crossing?

15 A. A half mile.

16 Q. And is that -- is that, if you know,
17 measured along the track essentially? I mean, is
18 that how that would be determined?

19 A. As far as I know.

20 Q. Okay. So what other alternate crossings
21 have been identified in the petition, and how far are
22 they from the County Line Road crossing?

23 A. The Keifer Road crossing is 1.2 miles
24 southwest of the crossing in question here, and the
25 Route 61 railroad crossing is about 1.15 miles

1 northeast.

2 Q. And the Route 61, that's -- at that
3 location, that's one in the same as 309, correct?

4 A. Correct.

5 Q. And these are the same tracks at these
6 alternate crossings you've identified, Keifer Road to
7 the southwest, Biddle Road to the northeast, and
8 State Route 309/61 a little bit further to the
9 northeast, those would be the same tracks as are at
10 the crossing in question, correct?

11 A. Correct.

12 Q. So the train counts that you've talked
13 about both before and what it is now would -- you
14 would expect to be the same; is that correct?

15 A. Correct.

16 Q. Again, looking at these alternate
17 crossings, Keifer, Biddle, County Road 309, and -- or
18 61, can you tell us, please, what the daily vehicular
19 traffic count at these alternate crossings is?

20 A. Keifer Road is between 116 and 131
21 vehicles per day; Biddle Road is 274 vehicles per
22 day; and the Route 61 is between 6,623 and 6,700
23 vehicles per day.

24 Q. And is that data, Ms. Decesare, as you
25 understand it, from the same sources, specifically

1 the PUCO database and the US Department of
2 Transportation database?

3 A. Yes.

4 Q. Now, having been to this area and
5 observed all of these -- well, am I correct that you
6 have seen all of these crossings we just referenced?

7 A. Yes.

8 Q. Do you have any sense as to how the --
9 those 120 to 185 vehicles that are indicated to use
10 the County Line Road crossing would be redistributed
11 over the other crossings if County Line Road would be
12 closed?

13 A. I would guess they would distribute
14 fairly evenly, but it's impossible to know based on
15 where the people are going and coming from.

16 Q. Okay. How would you describe the nature
17 of the roadway at County Line Road where it
18 intersects this crossing?

19 A. At County Line Road?

20 Q. Yes.

21 A. It is parallel to the tracks for the
22 most part, and then makes a jog at the tracks to be
23 able to cross at pretty much a perpendicular
24 crossing, and then makes a jog back to continue to be
25 parallel.

1 Q. And it's a two-lane road at that
2 location?

3 A. Yes.

4 Q. One -- one lane in each direction?

5 A. Correct.

6 Q. Would you describe it as a relatively
7 narrow two-lane road?

8 A. Yes.

9 Q. And how would you describe the sight
10 view at this crossing, the County Line Road crossing,
11 based upon what you've observed?

12 A. I would say it's inadequate until you
13 make the jog to get across the tracks, at which point
14 you are on top of the tracks.

15 Q. And you've described -- I think going
16 from east to west, you've described in your earlier
17 testimony the mound of -- that is between the road
18 and the tracks, and that the tracks are coming
19 essentially parallel to the road you're on; is that
20 correct?

21 A. Correct.

22 Q. And just so the record's clear, coming
23 from the other direction, you know, there's no mound
24 on that side, but is it a similar situation where the
25 tracks are kind of coming in over the driver's

1 shoulder?

2 A. Correct.

3 Q. And I guess to complete the discussion
4 regarding the County Line Road, it currently is
5 protected by flashers -- I'm sorry, currently is
6 protected by crossbar, correct?

7 A. Correct.

8 Q. Similar questions with respect to the
9 alternate crossings: What is the nature of the
10 roadway at those three crossings?

11 A. The Keifer Road is a wide-open crossing,
12 better sight distance than at County Line Road, and
13 it is a two-lane railroad, and there's one track at
14 Keifer Road, and it crosses the road at a 90 degree
15 angle.

16 Q. Okay. So at Keifer, the double set of
17 tracks has ended by the time you get to Keifer Road
18 and it's a single track there; is that correct?

19 A. Correct.

20 Q. Similar question then with respect to
21 Biddle and State Route 309, or 61. Can you describe
22 the nature of those roadways?

23 A. Yeah. Biddle Road is also a wide-open
24 crossing with good sight distance on all directions,
25 and it is also a two-lane railroad. Two tracks do

1 cross Biddle Road. The angle is near 90 degrees, and
2 it has flashing lights and gates, and I did not say
3 that Keifer Road has crossbars.

4 Q. Okay. How about State Route 309.

5 A. Yeah. State Route 309, or 61, is also
6 an open -- wide-open crossing with good sight
7 distance in all directions, and it's a two-lane state
8 highway, and there are two tracks at the crossing.
9 The angle is between 30 and 59 degrees of the
10 intersection, and it has flashing lights and gates.

11 Q. Thank you. You indicated that you
12 attended the public hearings last summer in both
13 Morrow and Crawford County. Have you on behalf of
14 CSX also reviewed and to the point of having an
15 understanding as to what the deposition testimony has
16 been by various individuals since that time in
17 depositions that were scheduled and taken on behalf
18 of CSX?

19 A. Yes.

20 Q. And based upon that, do you -- what is
21 your understanding -- I'm not asking you to quote
22 testimony, but based upon your review, what is your
23 understanding as to the impact of closure of this
24 crossing based upon -- related to school bus usage at
25 this particular crossing?

1 MR. HOWLAND: Objection. It's calling
2 for hearsay response. The affidavits -- the
3 depositions speak for themselves.

4 EXAMINER McKENNEY: Mr. Evans.

5 MR. EVANS: Well, Your Honor, I'm not --
6 I'm asking for this witness's understanding of the
7 impact at this point on school transportation. And
8 I'm going to ask her -- my intent would be to ask her
9 a similar question with respect to fire and EMS.

10 I don't think she's providing hearsay
11 testimony. She's just providing her understanding on
12 behalf of CSX and, therefore, CSX's understanding as
13 to the impact of this closure and why we continue to
14 feel it's appropriate for closure, not only based
15 upon the public hearing testimony we heard, but the
16 subsequent testimony.

17 MR. HOWLAND: May I respond?

18 EXAMINER McKENNEY: You may.

19 MR. HOWLAND: Your Honor, what he's
20 asking for is, "Have you read the depositions?"

21 "Yes."

22 "And based upon those depositions, what
23 do you think about these issues of school
24 transportation and emergency response?"

25 That's clearly calling for hearsay

1 response. She's basing her response on what she read
2 in those depositions. We ask that it not be allowed
3 and we move along.

4 EXAMINER McKENNEY: I agree. The
5 objection's sustained. Let's move along.

6 MR. EVANS: All right. Well, the
7 testimony will -- from those witnesses will speak for
8 itself.

9 BY MR. EVANS:

10 Q. Ms. Decesare, you're familiar with the
11 fact that there is a substation -- a gas pipeline
12 substation located in the vicinity of this crossing,
13 correct?

14 A. Correct.

15 Q. To your knowledge, has the owner of that
16 particular substation or the associated pipeline ever
17 advised CSX that there is any particular hazard or
18 increased hazard associated with that particular
19 substation or the pipeline in general?

20 A. No. We have no instructions or trying
21 to do anything different at that substation than
22 anywhere else on the railroad.

23 MR. EVANS: With the understanding that
24 the deposition transcripts previously referenced and
25 marked as exhibits are being admitted and will be

1 given consideration in lieu of live testimony, I
2 think that's all the questions I have for the witness
3 other than -- and I would simply move, if necessary,
4 that any of the exhibits that have been identified
5 here today be admitted.

6 EXAMINER MCKENNEY: Thank you,
7 Mr. Evans.

8 I'll rule on the admission after
9 cross-examination. I would rule on admission now.
10 Do you have any objection to the admission of these
11 exhibits?

12 MR. HOWLAND: I have no objection to the
13 admission.

14 EXAMINER MCKENNEY: Exhibits will be so
15 admitted. I'm going to go through them just to make
16 sure I've appropriately marked them.

17 Aerial photo as Exhibit 12 will be so
18 admitted. Two photos of the crossing are Exhibits 13
19 and 14. I don't believe I saw the photo that was
20 marked as Exhibit 15. Exhibit 16 is the diagnostic
21 review, that will be admitted. Exhibits 17, 18 and
22 19 are three letters that were filed, those will be
23 admitted. Exhibit 20, map of Morrow County will be
24 admitted. Exhibit 21, map of Crawford County will be
25 admitted. Exhibit 22 is the Petition for Closure.

1 Does that sound correct?

2 MR. EVANS: I believe that's correct,
3 yes.

4 EXAMINER McKENNEY: It will be so
5 admitted.

6 MR. EVANS: Thank you.

7 EXAMINER McKENNEY: Thank you,
8 Mr. Evans.

9 Mr. Howland, are you prepared for
10 cross-examination?

11 MR. HOWLAND: I promise, Your Honor,
12 I'll be very, very brief.

13 EXAMINER McKENNEY: Well, you may take
14 the time that you need.

15 MR. HOWLAND: Thank you.

16 - - -

17 CROSS-EXAMINATION

18 BY MR. HOWLAND:

19 Q. Ma'am, when you were going through your
20 initial credentials, you're an engineer; is that
21 correct?

22 A. No. I do not -- I'm not a licensed
23 engineer. I went to school for Construction
24 Management and an Associate in Applied Science in
25 Civil Engineering Technology.

1 Q. Well, you're far more of an engineer
2 than I'll ever be, but close, in the range there.

3 Now, I think you and I can agree that
4 closing this crossing is a real priority for CSX,
5 isn't it?

6 A. It's a priority in terms of the safety
7 of the crossing, yes.

8 Q. In terms of the safety of the
9 crossing --

10 A. Yes.

11 Q. -- is that correct?

12 Okay. Now, on the issue of the safety
13 of the crossing, do you know how many fatal accidents
14 have been at this crossing?

15 A. I don't believe there's been any.

16 Q. Okay. Do you know how long the
17 crossing's been there?

18 A. I do not know.

19 Q. Okay. We've got a crossing just south
20 of Cardington, a grade crossing. Every 10 or 15
21 years somebody gets killed down there, and I've
22 noticed that's not a priority for anybody to shut
23 that down.

24 A. That would have to be discussed with the
25 ORDC and PUCO who schedule these diagnostic meetings.

1 Q. I understand that. But I don't see CSX
2 went to close that crossing. Speaking of which,
3 other than this crossing and the ones that are in the
4 neighborhood, have you looked at any other crossings
5 that CSX has? I mean, we've got dozens of them
6 there, you know, in rural Morrow County, Ohio.

7 A. I've been to many crossings. I don't
8 know how many I've been to in Morrow County.

9 Q. Okay. All right. Now, also we've been
10 offered money, which is nice. Let's see, how much
11 money have we been offered; \$5,000 for CSX funds to
12 be used by the Township and the City, another
13 \$15,000, \$7,500 from CSX, and \$7,500 from ORDC. We
14 haven't been offered any money for any other of the
15 rural crossings in Morrow County.

16 A. Have you had diagnostics that have been
17 closed?

18 Q. No, we haven't, not that I know of
19 anyway.

20 A. Me, neither.

21 Q. Now, earlier on you were asked about the
22 criteria in 4907.474 of the Ohio Revised Code and
23 4907.475. You're familiar with that criteria?

24 A. Yes.

25 Q. Okay. And parking a train through the

1 crossing is not listed as part of that criteria, is
2 it?

3 A. I don't think it's relevant. No, it's
4 not listed.

5 Q. That's not what I asked.

6 A. It's not listed as part of the criteria,
7 correct.

8 Q. Thank you, not listed, good.

9 All right. In fact, we both know that
10 if you park a train in a crossing it's illegal,
11 right? You can't leave it there for more than a
12 certain amount of time. Do you know how much time it
13 is?

14 A. I don't know the time.

15 Q. Okay. But we can agree that it's
16 illegal to do that, isn't that right?

17 A. After a certain amount of time, yes.

18 Q. Okay. All right. Do you understand
19 that there is a park adjacent to this?

20 A. The reservoir?

21 Q. Yeah.

22 A. Yes.

23 Q. Okay. You understand that's used by the
24 kids for cross country and all sorts of sporting
25 events and that kind of thing throughout the year,

1 and that crossing is used as an exit. You're
2 familiar with that, aren't you?

3 A. I'm familiar with the location, but my
4 understanding is that the Morrow -- or the County
5 Road 8 crossing we're talking about is not used for
6 that access for emergency purposes anyway.

7 Q. Okay. Do you know what controls the
8 trains as far as making the decision to stop?

9 A. Our Operating Department based on many
10 factors which vary day by day, which could be related
11 to weather, other traffic scenarios, things that
12 happen miles away. It changes every day.

13 Q. Are you familiar with the fact that
14 between February of 2014 and June of 2014, that there
15 were over 10 citations for trains parked at this
16 location?

17 MR. EVANS: Objection, assumes --

18 EXAMINER McKENNEY: Grounds.

19 MR. EVANS: It assumes facts -- there's
20 no evidence to that.

21 MR. HOWLAND: Your Honor, this is
22 cross-examination, you should give it some latitude.
23 And it is the facts, they are facts that are in
24 evidence. This was put into evidence at one of the
25 hearings last summer.

1 EXAMINER McKENNEY: Mr. Evans.

2 MR. EVANS: Well, as of -- until this
3 morning, the County had not even registered their
4 appearance to take part in this hearing. They've
5 provided no evidence as part of this hearing related
6 to the crossings being blocked and citations being
7 issued, nor have they established that this witness
8 has any knowledge in that area or that it's in any
9 way relevant to the issue of closure. In fact, the
10 testimony has been it's not. But for all those
11 reasons, I object to this line of questioning.

12 EXAMINER McKENNEY: I'm going to
13 overrule the objection, allow her to respond to
14 whether she's aware of the citations.

15 Mr. Howland, can you repeat your
16 question?

17 BY MR. HOWLAND:

18 Q. Are you aware that between February of
19 2014 and June of 2014, Crawford County Sheriff's
20 Department cited CSX 10 times for parking trains at
21 that crossing?

22 A. I'm aware of it because I attended the
23 hearings last summer.

24 Q. Thank you.

25 A. But it was not -- not the case in

1 November 2011 when this diagnostic occurred, which
2 the County, the railroad and the State were present
3 at and discussed closure at that time.

4 Q. I understand what you're saying, that it
5 wasn't part of it, but that has been an ongoing
6 problem. In fact, it goes on back, at least the
7 records do, to 2001.

8 A. I'm not aware of that, but I am aware of
9 the 2014 ones you referenced.

10 Q. But you and I can both agree that
11 parking a train at that crossing is not part of the
12 criteria for closing the crossing, right?

13 A. Correct.

14 Q. You and I can both agree that if that
15 closing gets -- if that crossing gets closed, there
16 will be no more citations, right?

17 A. That would make sense.

18 MR. HOWLAND: Okay. I have no further
19 questions. Your Honor, I'd ask you to forgive my
20 ignorance of these proceedings, I'm just a humble
21 County prosecutor. This is my first time in front of
22 this Board. I thought that these exhibits were
23 admitted last summer. Have they not been for this
24 hearing?

25 EXAMINER McKENNEY: Which exhibits, the

1 depositions?

2 MR. HOWLAND: The depositions, and also
3 the report from Sheriff Kent concerning the crossing
4 closings, is that not in front of you?

5 EXAMINER MCKENNEY: They are not.
6 They've not been marked and admitted; however,
7 they're in the record in this case pursuant to the --
8 consistent with the public hearing testimony is also
9 considered.

10 MR. HOWLAND: So that will be something
11 you will be able to consider in deciding the matter?

12 EXAMINER MCKENNEY: Yes. If it's in the
13 docket and it's been submitted in the docket, we
14 would mark it and admit it so we can test its
15 reliability; however, it is in the docket so it can
16 be seen.

17 MR. HOWLAND: Thank you, Your Honor.
18 Then I have no further questions.

19 EXAMINER MCKENNEY: Okay, Mr. Howland.
20 Redirect from the railroad?

21 MR. EVANS: Very briefly.

22 - - -

23 REDIRECT EXAMINATION

24 BY MR. EVANS:

25 Q. Just to reiterate, Ms. Decesare, first

1 of all, in terms of citations, I think it's clear
 2 from your testimony you don't have anything to do
 3 with whether there's a citation and how that is
 4 handled on a local basis, if and when that would
 5 happen?

6 A. Correct.

7 Q. Is it accurate to state then that as you
 8 testified earlier, I believe, that to your knowledge
 9 the question of what citations have been issued and
 10 when have, from your standpoint, no bearing on the
 11 process to attempt to close this crossing, including
 12 the filing of the Petition for Closure?

13 A. Correct.

14 Q. And since you were asked about the cross
 15 country event out there, I think it's fair that you
 16 would be on behalf of the railroad to indicate the
 17 railroad's understanding as to the impact, if any, of
 18 that cross country event and how -- in terms of how
 19 they handle emergency response to that and traffic
 20 control based upon your understanding of the
 21 testimony?

22 A. Yes. It is my understanding that the --
 23 is it okay if I point here?

24 EXAMINER McKENNEY: You may.

25 THE WITNESS: The Galion City EMS

1 response comes out of Galion, and they actually come
2 down 309 here, and continue down 309, and access the
3 reservoir through some network of dirt roads that are
4 in the park itself.

5 BY MR. EVANS:

6 Q. Okay. Is there access both from the
7 north of the reservoir off of County Line Road east
8 of the crossing, as well as from State Route 309?

9 A. I believe so, but my memory's a little
10 fuzzy on that.

11 Q. Okay. And when there is a large event
12 like the cross country meet there, do you have an
13 understanding as to whether the police and EMS
14 typically maintain a presence there throughout the
15 event?

16 A. If it was a scheduled athletic event,
17 they said that they would have somebody there already
18 from emergency response.

19 Q. And is there any concern -- what is your
20 understanding as to how they handle traffic with as
21 many people -- spectators, et cetera, that are coming
22 to watch that event, do you have an understanding as
23 to how they handle that traffic?

24 A. They make the dirt roads that are in the
25 park one-way roads to exit how they feel would be the

1 most appropriate way to exit that day.

2 Q. And is it your understanding that
3 generally that involves entrance from the County Line
4 Road entrance and exit to the east onto State Route
5 309?

6 A. Yes.

7 MR. EVANS: That's all the questions I
8 have.

9 EXAMINER MCKENNEY: Thank you.

10 Mr. Howland, do you have anything for
11 recross?

12 MR. HOWLAND: No, Your Honor. Thank
13 you.

14 EXAMINER MCKENNEY: Thank you. Thank
15 you, I have no questions. You can step down.

16 Mr. Evans.

17 MR. EVANS: Your Honor, we have no
18 additional live witnesses. With this testimony,
19 along in conjunction with the previously admitted
20 deposition testimony, we would rest in terms of our
21 case with respect to the closure of the crossing.

22 EXAMINER MCKENNEY: Thank you,
23 Mr. Evans.

24 Mr. Howland, did you have anything for
25 us this morning?

1 MR. HOWLAND: I have no witnesses, Your
2 Honor. We'd ask that you'd consider all of the
3 exhibits, including the ones that were admitted last
4 summer. Thank you.

5 EXAMINER MCKENNEY: Thank you,
6 Mr. Howland.

7 I have nothing further. Do we have
8 anything else for the good of the order?

9 MR. EVANS: The only thing I would ask,
10 Your Honor, is we did file, we hope and believe
11 pursuant to the applicable rules, a request to submit
12 a post-hearing brief in lieu of any kind of summation
13 today certainly, and if -- just wanted to clarify as
14 to whether that's acceptable to you, and timing, I
15 guess, if you have any thoughts on that.

16 EXAMINER MCKENNEY: Yes. I do have a
17 proposed briefing schedule. I'm looking at having
18 briefs filed April 3rd, which is Friday, that is 30
19 days from today, and then reply briefs on April 17th,
20 that is also a Friday, and is 14 days after that.
21 Would that be amenable to everyone?

22 MR. EVANS: That's fine. So am I
23 correct in understanding that both sides, or anybody
24 who wants to file a brief, could do so initially, and
25 then the other side would have the opportunity to

1 respond?

2 EXAMINER McKENNEY: That would be the
3 reply brief, yes.

4 MR. EVANS: Okay. Just wanted to make
5 sure that we weren't the only ones filing the brief
6 and their reply brief, both sides would do so.

7 EXAMINER McKENNEY: Both sides may file
8 a brief, both sides may file a reply to the other
9 side's brief.

10 MR. EVANS: Very well. Thank you.

11 EXAMINER McKENNEY: Anything else?
12 Nothing further.

13 MR. EVANS: Nothing further.

14 EXAMINER McKENNEY: Mr. Howland?

15 MR. HOWLAND: No, nothing further.
16 Thank you, Your Honor.

17 EXAMINER McKENNEY: Thank you. Nothing
18 else from the gallery. We are adjourned.

19 MR. EVANS: Thank you.

20 (Thereupon, the hearing was
21 concluded at 11:25 a.m.)

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CERTIFICATE

I do hereby certify that the foregoing
is a true and correct transcript of the proceedings
taken by me in this matter on Tuesday, March 3, 2015,
and carefully compared with my original stenographic
notes.

Carolyn D. Ross,
Registered Professional
Reporter and Notary
Public in and for the
State of Ohio.

My commission expires April 3, 2019.
(CDR-77907)

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Case No(s). 14-0379-RR-UNC

Summary: Transcript in the matter of CSX Transportation, Inc. hearing held on 03/03/15 electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Anderson, Rosemary Foster Mrs.