

**A report by the staff of the  
Public Utilities Commission of Ohio**

In the Matter of the Request of Norfolk Southern Railway Company to  
Downgrade Warning Devices at the Earl Road/CR 348 (DOT#503-145C)  
Grade Crossing in Stark County, Ohio.

Case Number 18-333-RR-RCP

March 26, 2018

## INTRODUCTION

### **Rail Division**

The Public Utilities Commission of Ohio (PUCO) works with local highway authorities and communities to provide safety for the citizens of Ohio at highway-railroad grade crossings.

The PUCO has the statutory authority to regulate and promote the welfare and safety of railroad employees and the traveling public pursuant to Ohio Revised Code (ORC) §4905.04.

The PUCO has the authority to close public at grade crossings pursuant to ORC §§4907.474 and 4907.475. These sections set forth a variety of factors to be considered by the Commission in determining whether there is a demonstrable need for any public grade crossing to exist and whether any such crossing could be closed to vehicular traffic and/or pedestrian traffic and the travel over the grade crossing diverted to other grade crossings.

The PUCO is responsible for evaluating public highway railroad grade crossings to determine the need for upgrading the warning devices and apportioning the cost thereof pursuant to ORC §4907.471.

The PUCO has the authority under ORC §4511.63(B) to declare a grade crossing exempt, whereby vehicles normally required to stop at a grade crossing, under that title and Code of Federal Regulations Title 49, §392.10, would be able to proceed through the crossing without stopping.

The PUCO enforces all aspects of the Federal Railroad Administration regulations through inspections and evaluations of Ohio's public highway railroad grade crossings.

## **DESCRIPTION OF APPLICANT**

Norfolk Southern Railway Company is owned by Norfolk Southern Corporation, based in Norfolk, Va., They operate approximately 19,500 miles of tracks and serve 22 states in the Eastern United States. In Ohio, NS owns 2,020 miles of track and connects with 29 short line railroads.

Norfolk Southern Railway Company (NS) is primarily engaged in the transportation of raw materials, intermediate products, and finished goods primarily in the Southeast, East, and Midwest via interchange with other rail carriers to and from the rest of the United States. They offer the most extensive intermodal network in the eastern United States.

## **PROJECT DESCRIPTION**





On February 26, 2018, NS petitioned for approval to downgrade the warning devices at Earl Road (DOT#503-145C) in the Stark County, Ohio. NS requested this because the track has been cut on both sides of the roadway and no trains can currently access the crossing. NS wants to remove the flasher and maintain just standard crossbuck signage with yield signs at the crossing.



Earl Road DOT#503-145C



## Earl Road DOT#503-145C

<b>South Direction</b>	<b>West Direction</b>
	
<b>North Direction</b>	<b>East Direction</b>
	
<b>Site Information</b>	
<b>AARDOT:</b>	503145C
<b>AARDOT Source:</b>	Railroad
<b>Adj. AARDOT:</b>	142547K
<b>Adj. AARDOT Source:</b>	Railroad
<b>Survey Site ID:</b>	
<b>Init. Agency for Change:</b>	Railroad
<b>Reason for Change:</b>	Updated Record
<b>Effective Date:</b>	Mar 23 2018 12:00AM
<b>Railroad Information</b>	
<b>Operating RR:</b>	Norfolk Southern Corp
<b>Division:</b>	PITTSBURGH
<b>Sub-Division:</b>	
<b>Branch/Line Name:</b>	
<b>Milepost:</b>	0.8
<b>Railroad ID:</b>	

<b>Nearest Time Table Station:</b>	MASSILLON
<b>Parent RR Company:</b>	NS
<b>Crossing Owner:</b>	NS
<b>Location and Classification Information</b>	
<b>County:</b>	STARK
<b>(Nearest) City:</b>	MASSILLON
<b>Street:</b>	EARL ROAD
<b>Highway and SLM:</b>	CR 348
<b>High Speed Corridor:</b>	
<b>County Map Ref. Number:</b>	
<b>ODOT NLF ID:</b>	
<b>Latitude:</b>	40.813208
<b>Longitude:</b>	-81.530698
<b>Elevation (ft):</b>	
<b>Crossing Type:</b>	Public
<b>Position:</b>	At-Grade
<b>Emergency Contact:</b>	
<b>Railroad Contact:</b>	(800) 453-2530
<b>State Contact:</b>	
<b>LHA:</b>	STARK COUNTY
<b>LHA2:</b>	
<b>Dev. Type:</b>	Residential
<b>Crossing Angle:</b>	30-59 Degrees
<b>Main Tracks:</b>	
<b>Other Tracks:</b>	1
<b>Lanes:</b>	2
<b>Warning Devices</b>	
<b>Crossbucks, Standard:</b>	2
<b>Crossbucks, Buckeye:</b>	
<b>Lights, Mast Mounted:</b>	1
<b>Lights, Cantilevered:</b>	0
<b>Lights, Other:</b>	
<b>Gates:</b>	0

Traffic Information	
Day Thru Trains:	0
Day Switching Trains:	0
Night Thru Trains:	0
Night Switch Trains:	0
Date of Train Count:	
Highway AADT:	1011
Date of AADT:	2013

Highway Information	
Distance to Nearest Intersection:	
Type of Intersection:	Not Surveyed
Number of HW-HW Intersections:	

## Earl Road Site Pictures Taken on March 9, 2018



Looking North at Earl Road Crossing.



Looking West at Earl Road Crossing.



Looking South at Earl Road Crossing.



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

**Date of Assignment:** March 5, 2018

**Date of Inspection:** March 9, 2018

**Subject:** 18-0333-RR-FED Crossing downgrade, Earl Road, Massillon, Stark County, Norfolk Southern Railway (NS).

**DOT# 503-145C**

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**FINDINGS**

On receipt of the present assignment, I conducted an inspection of the crossing on March 9, 2018. The railroad has petitioned the Public Utilities Commission of Ohio (PUCO) to downgrade the active warning device at the Earl Street highway rail grade crossing.

Upon inspection I found a two lane roadway that travels east and west and is intersected by a highway rail grade crossing owned by NS. The tracks intersect the roadway at M.P .8 and runs north and south. The crossing consists of one industrial track which currently has a standard flasher as an active highway rail grade crossing warning system. RJ Corman Railroad also has an adjacent crossing which is 121 feet away from the NS crossing. This crossing has standard flashers as an active highway rail grade crossing warning system and is interconnected with the NS grade crossing. . The crossing GPS coordinates are N 40.81345, W -81.530887. The posted roadway speed limit is 35 mph. The AADT is 1011 and was taken in 2013.

Upon inspection I found the rails have been removed on both sides of the crossing and the rails through the roadway have been paved over. There is one flasher mast in the northeast quadrant that appears to still be operational. The NS claims they have no trains over the crossing and have no plans the future to run trains over the crossing.

**SUMMARY AND RECOMMENDATIONS**

It is recommended the railroad be granted the downgrade of the active highway rail grade crossing system as long as the railroad agrees to meet the following exceptions and stipulations.

- If rail service is ever restored across the highway rail grade crossing the active warning devices must be restored and meet the current Manual of Uniform Traffic Control Devices (MUTCD) standards in effect at the time they are restored.
- The grade crossing surface and active warning devices will be restored at the railroad's expense.

- Since the line has not been formally abandoned by the Surface and Transportation board (STB) the railroad understands they are required to provide rail service to any customer at any time it is requested on this line in the future. This is better outlined in the email from the STB attached below.

**Shawn Zurfley**  
**PUCO/FRA Rail Inspector**  
**Date: March 12, 2018**

**Surface Transportation E-Mail Communication:**

**From: Brian.OBoyle@stb.dot.gov**  
**To: Zurfley, Shawn**  
**Cc: David.Kruschwitz@stb.dot.gov**  
**Subject: RE: Grade crossing removal.**  
**Date: Thursday, August 08, 2013 12:01:44 PM**

Mr. Zurfley,

I am writing on behalf of the STB's Office of Public Assistance, Governmental Affairs & Compliance, in response to your inquiry below. Mr. Kruschwitz forwarded your inquiry to me, as he thought I could better provide you with an answer.

All rail carriers have a legal obligation to provide rail service upon request (the "common carrier" obligation). Accordingly, a rail carrier cannot simply decide to stop providing rail service without STB authority. However, if there are no shippers that want rail service and it does not appear that there will be for some time, the carrier can temporarily cease operations.

In such situations, the STB has held that it is generally acceptable for a railroad to remove short sections of track (including over street crossings), so long as the railroad is willing and capable of putting the track back in place if there are requests for rail service. By capable, I mean that the carrier has the financial means to do so – sometimes carriers that are having financial problems will remove track with the promise of putting it back in when needed, even though in reality there is no way that they would be able to afford to do so. If there is a demand for rail service, and the carrier cannot or will not put the tracks back in place, it would be in violation of its common carrier obligation and could face penalties from the STB.

As we usually tell rail carriers that are contemplating removing track without authority, they are permitted to do so, but they do so at their own risk.

I hope that this information helps. Please let me know if you have further questions.

Brian O'Boyle  
Surface Transportation Board  
Office of Public Assistance, Governmental Affairs & Compliance  
Section Chief, Rail Customer & Public Assistance program  
1-866-254-1792  
(202) 245-0245 (Board Mainline)

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**From:** "Zurfley, Shawn" <Shawn.Zurfley@puc.state.oh.us>  
**To:** "David.Kruschwitz@stb.dot.gov" <David.Kruschwitz@stb.dot.gov>  
**Date:** 08/07/2013 08:38 AM  
**Subject:** Grade crossing removal.

Mr. Kruschwitz,

I am a rail inspector for the State of Ohio and have spoken with you before on other rail related issues. I have a railroad who is looking at placing a line in abeyance till business picks up. They are looking at removing the rails from the roadway and paving the roadway. I can't find any laws or regulations in the state of Ohio that would prevent them from doing this. Is there any objections the Surface and Transportation Board would have with them removing the rail from the roadway.

Thank you,  
Shawn Zurfley  
PUCO/FRA S&TC Rail Inspector

## **STAFF RECOMENDATIONS**

PUCO Rail Staff recommends the following actions be taken:

- 1) Approve the NS request to downgrade the warning devices at the crossing.
- 2) Require NS to place and maintain crossbuck warning signs at the crossing.
- 3) Require NS to notify Staff when the work is completed.
- 4) Require staff to conduct follow-up inspections to verify that the modifications have been made as approved.
- 5) If train service resumes on this line, NS should reinstall the active warning devices at their own expense. The devices would need to meet the Ohio Manual of Uniform Traffic Control Device standards (OMUTCD).



## **OTHER INFORMATION**

### **Ohio's Rail Grade Crossing Programs**

Ohio is a national leader in terms of railroad operations. Ohio is home to nearly 40 railroads that operate thousands of trains in Ohio every day over approximately 4,900 miles of track and 5,800 public grade crossings. The Public Utilities Commission of Ohio (PUCO) is the state agency with regulatory authority over railroads operating in Ohio. The Commission works in partnership with the Federal Railroad Administration to ensure that rail operations and infrastructure are safe and in compliance with federal and state regulations.

In addition to central office staff and administration, the PUCO employs federally certified railroad inspectors throughout Ohio. These inspectors respond to inquiries and complaints and conduct specialized inspections of railroad tracks and equipment, rail operations, hazardous material transportation, and grade crossing signal circuitry. The inspectors also monitor railroad rights-of-way and grade crossings for: surface conditions, view obstructions, fencing and drainage concerns. Additionally, inspections are conducted on railroad equipment at rail yards and other facilities and they review safety concerns of both the PUCO and railroad employees.

### **Safety is our highest priority**

Grade crossing safety is one of the PUCO's highest priorities, and we are proud of our accomplishments. Since 1990, motor vehicle/train crashes at grade crossings in Ohio have declined from 326 to 68 in 2017 and the number of fatalities has dropped from 59 to 8 in 2017. This dramatic improvement has been achieved during a period of steady increase in the amount of train traffic and in the number of registered motor vehicles and licensed drivers in Ohio. Over the past 15 years, the PUCO has participated in safety upgrades at more than 3,300 grade crossings across Ohio. We look forward to working with your community to help make grade crossings as safe as possible.

### **Questions or Concerns?**

Call the Ohio Rail Hotline at (866) 814-RAIL or log on to [www.PUCO.ohio.gov](http://www.PUCO.ohio.gov) for answers to all of your railroad crossing needs.

The Public Utilities Commission of Ohio  
Asim Z. Haque, Chairman

180 E. Broad Street, Columbus, Ohio 43215-3793  
(800) 686-PUCO (7826)

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**This foregoing document was electronically filed with the Public Utilities**

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**Case No(s). 18-0333-RR-RCP**

Summary: Staff Report Filed In the Matter of the Request of Norfolk Southern Railway Company to Downgrade Warning Devices at the Earl Road/CR 348 (DOT#503-145C) Grade Crossing in Stark County, Ohio. electronically filed by Mrs. Jill A Henry on behalf of PUCO/Rail Division