



**NORFOLK
SOUTHERN**

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FILE

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RAILROAD SECTION
Public Utilities Commission of Ohio

**Krista J. McAninley
Attorney**

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PUCO

November 10, 2000

**VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Mr. Gary E. Vigorito, Secretary
The Public Utilities Commission of Ohio
180 East Broad Street
Columbus, OH 43266-0573

RE: Complaints by the Ohio State Legislative Board, United Transportation
Union v. Norfolk Southern Railway Company, relating to alleged excessive
growth of weeds and vegetation
Our File No. ST36.OH-62

Dear Mr. Vigorito:

By letters to Robert E. Marvin, Chief of the Transportation Department of the
Railroad Section of the Public Utilities Commission of Ohio (PUCO), the Ohio State
Legislative Board, United Transportation Union, through its Chairman, William J.
Thompson, alleged that Norfolk Southern Railway Company "permitted unsafe and
hazardous conditions to arise due to the excessive growth of weeds and vegetation on
its property" at the following locations:

IDS	00-1276-RR-CSS	Letter Dated June 26, 2000 WV132-00-00
Weyerhaeuser	00-1954-RR-CSS	Letter Dated May 22, 2000 WV158-00-36
Royal Chemical	00-1586-RR-CSS	Letter Dated August 8, 2000 WV142-00-20
00-1476-RR-CSS	Coke's Derail/Twinsburg Industrial Track	Letter Dated July 25, 2000 WV140-00-18
	Agmet Metals 00-1274-RR-CSS	Letter Dated June 26, 2000 WV135-00-13
	Schulman 00-1270-RR-CSS	Letter Dated June 26, 2000 WV133-00-11

In view of the decision of the United States Supreme Court in CSX
Transportation, Inc. v. Easterwood, 113 S. Ct. 1723 (1993), it appears that the entire
matter of vegetation control of railroad rights-of-way has been preempted by the Federal
Railroad Administration regulations covering the subject matter in 49 C.F.R. § 213.37.

Operating Subsidiary: Norfolk Southern Railway Company

This is to certify that the images appearing are an
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11/10/00
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Norfolk Southern Railway Company, without waiver of its claim of federal preemption of the subject matter, denies that it permitted an unsafe condition to exist at the subject site. Norfolk Southern merely advises PUCO that all weeds and vegetation on tracks that are being used have been eliminated. Therefore, Norfolk Southern Railway Company respectfully requests prompt dismissal of the complaint.

Please date stamp and return to me the extra copy of this answer. A stamped, self-addressed envelope is enclosed for your convenience.

Very truly yours,



Krista J. McAninley

Enclosures

cc: William J. Thompson, Chairman –
Ohio State Legislative Board
United Transportation Union
Suite 245, 2021 East Dublin – Granville Road
Columbus, OH 43229-3522

**Via Certified Mail,
Return Receipt Requested**

Robert E. Marvin
Chief, Transportation Department
Railroad Section, Public Utilities Commission of Ohio
180 East Broad Street
Columbus, OH 43266-0563