

OHIO PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF:

CASE NO. 01-2402-RR-UNC
01-2404-RR-UNC
01-2405-RR-UNC

The Petition of CSX Transportation,
Inc. to Close to Vehicular Traffic
Three Highway - RR Grade Crossings,
in the Village of Hoytville, Wood
County, Ohio.

PUCO

2002 MAY 31 PM 12:20

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Be it remembered, that the above entitled matter

was held before Scott Farkas, Attorney Examiner, on the
22nd day of May, 2002, six o'clock p.m. at the Hyco
Building, 19911 Church Street, Hoytville, Ohio, when the
following proceedings were had.

APPEARANCES:

On Behalf of the Petitioner, CSX
Transportation, Inc.:

Messrs. Anspach, Serraino, Meeks & Nunn

By: Mark D. Meeks, Attorney at Law
405 Madison Avenue
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Toledo, Ohio 43604-1236

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I N D E X:

	WITNESSES:	STATEMENT:
3	Mark Meeks	4
4	Eugene George	7
5	Dan Zernhel	9
6	Gene Weaver	11
7	Donna Gordon	12
8	Linda Holmes	14
9	George Kline	21
10	Brendyn George	23
11	Tony Allion	24
12	Linda Holmes	27
13	Matthew Sheeks	28
14	Linda Holmes	29
15	Matthew Sheeks	32
16	Dan Zernhel	32

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May 22, 2002

1
2 MR. FARKAS: The Commission is called for
3 hearing at this time and place. The matter of
4 the petitions of CSX Transportation, Inc. to
5 close to vehicular traffic three highway --
6 railroad grade crossings in and around the Village
7 of Hoytville, Wood County, Ohio. Case No.
8 01-2402-RR-UNC, 01-2404-RR-UNC and 01-2405-RR-UNC.
9 These are the crossings at Hockenberry Road,
10 Sands Road and Prairie View Road.

11 My name is Scott Farkas. I'm the attorney
12 examiner assigned to hear this case. And the
13 purpose of this hearing is to take public comment
14 on these petitions to close these three crossings.
15 What we'll do is I'll take appearances of those
16 present, specifically the railroad. And allow any
17 individual that wants to make a public comment
18 give public testimony with respect to these
19 crossing closures.

20 So at this time I'll take appearances first
21 on behalf of the railroad.

22 MR. MEEKS: Mark Meeks, counsel for CSX.

23 MR. HOLDREN: Scott Holdren from the engineering
24 department with CSX.

25 MR. FARKAS: And I'll note we have a sign up

1 sheet also. If anybody is interested in making a
2 public statement, they should sign up and we'll
3 allow that -- those people to give a public
4 statement.

5 So before we do that though I'd like to ask the
6 railroad that filed the applications to explain
7 generally what they're proposing to do or what they
8 want to do.

9 MR. MEEKS: The petition is to close the
10 crossings, three crossings out west of town. CSX
11 in conjunction with the PUCO and the ORDC and a
12 state wide, in fact, a nation wide opportunity or
13 goal to close crossings or upgrade crossings has
14 gone through and we have determined that the
15 three crossings we're talking about tonight probably
16 should be closed.

17 All of you probably know of those roads and the
18 condition that they're in, the amount of traffic
19 that goes through there.

20 And in looking at the area in general, the other
21 crossings around, CSX drew the conclusion it would be
22 better to close those crossings and in conjunction
23 with the PUCO's order to upgrade the two other
24 crossings, Custer and Milton. Those crossings will
25 have the crossing protection again in conjunction

1 with the national effort to try to reduce a number of
2 grade crossings or to improve the condition of the
3 grade crossings.

4 The PUCO's order was to complete those by
5 September of this year. And our current target date
6 is June 6th we expect to have them up and running
7 by June 6th. Those are well underway. Again,
8 those of you who live in the community probably have
9 seen those crews out there getting those put up.

10 You also probably know that the three roads in
11 question have been closed and that was done when CSX
12 came through and did track work on the main line.
13 Which, again, if you're from town, you know that we
14 do that occasionally and go through.

15 CSX does not do the paving work on the
16 crossings. We don't have the equipment or the
17 facilities to do that. We hire contractors to do
18 that. And we in fact hired a contractor to pave
19 all of the crossings when we came through. And the
20 contractor has simply stated they couldn't get
21 their heavy equipment and asphalt trucks into
22 those facilities when they're in the area. And
23 currently they are in North Baltimore and they're
24 working their way this way. And they expect to be
25 here sometime next week. And, again, if the

1 weather holds and they can get their trucks in,
2 they intend to resurface them. If not,
3 unfortunately, they bypass the ones they can't
4 get in and go on down the line. And the next
5 time they come back through the area they will
6 check them again. So no promises but that's the
7 contractor that we have already with the paving
8 company to do that.

9 But, again, back to the condition of those
10 three crossings. Again, the CSX submitted a
11 determination that it would be better for public
12 safety to close those crossings and upgrade the
13 protection devices in Custer and Milton Road
14 which, again, is being done.

15 Once the crossings -- if the crossings are
16 deemed to be closed, CSX goes through a process of
17 closing those. And I have Scott Holdren from the
18 engineering department who can answer any questions
19 you have specific about that. But I think just
20 generally the tracks or that the pavement is removed,
21 the ditches they try to get those back to the way
22 that they were, barricades are put up. Again, to
23 prohibit vehicular traffic from going down the
24 road. And signage is put up, again, in conjunction
25 with the governmental authorities advising the

1 public that the roads no longer go through. And
2 I think if there are further questions Scott can
3 address them at a later time.

4 But I think that pretty much sums up the
5 railroad's position set forth in the petition.
6 Thank you.

7 MR. FARKAS: Thank you. Let's go off the
8 record for a second.

9 (Whereupon, an off-the-record discussion was had.)

10 MR. FARKAS: Anyone who signed up on that
11 sheet let me ask at this time is there anyone that
12 wants to make a public statement with respect to
13 these crossing petitions?

14 Yes, sir. You can remain seated if you want
15 back there.

16 MR. GEORGE: My name is Eugene George.

17 MR. FARKAS: Wait a minute. Wait a minute.
18 I'll ask anybody that wants to make a public
19 statement first to state their name, spell their
20 last name and state their address for the record
21 and the court reporter will swear you in.

22 MR. GEORGE: My name is Eugene George, 19700
23 Needles Road, Custer, Ohio. And we have a farm on
24 Sands Road --

25 (Whereupon, Mr. George was placed under oath by the court

1 reporter.)

2 MR. FARKAS: Okay.

3 MR. GEORGE: We have a farm on Sands Road,
4 ninety seven acres. And approximately half of it
5 is on each side of the road -- or tracks. And we
6 have a grain dryer on the south side of the tracks
7 and all of our grain has to be hauled to the dryer
8 and bins to be stored. And this would be quite a
9 nuisance to have to run down eighteen with wagons
10 and tractors and sprayers and things like that.
11 If it wouldn't be a state highway out on the
12 north end, it wouldn't be bad but that's a state
13 highway. Just hate to be running down there with
14 tractors and wagons and sprayers and things like
15 that.

16 MR. FARKAS: Okay. Is there anything else that
17 you want to say?

18 MR. GEORGE: Yeah. We have to make left-hand
19 turns too off of eighteen and with a wagon and
20 tractor and wagons sitting there, someone coming up
21 behind you, well, they don't realize it. Good
22 chance for an accident being it's a state highway.
23 I guess that's it.

24 MR. FARKAS: Is there anyone else that wants to
25 make a public statement? Yes, sir.

1 MR. ZERNHEL: Dan Zernhel, 22867 Deshler Road,
2 Deshler, Ohio. Z-e-r-n-h-e-l. I'm a township
3 trustee. These roads that --
4 (Whereupon, Mr. Zernhel was placed under oath by the
5 court reporter.)

6 MR. ZERNHEL: These roads I know there's some
7 that you're talking about aren't in like passable
8 shape maybe for the public to travel. But all these
9 are agricultural roads. You got to get down through
10 them. And like we were talking, you do have to
11 cross the tracks sometimes to get in and get out.
12 And why should we have to reroute ourselves when we
13 go and use them roads like that during the seasons
14 whenever it's farming. Winter there's not much goes
15 on. But during the summer, spring till fall, them
16 roads do get used. And for agricultural purposes,
17 which we are in this community, I think they should
18 remain open.

19 MR. FARKAS: Right now there are road closed
20 signs on each of the roads that are the subject of
21 these petitions. Can you explain what you know about
22 the road closure signs?

23 MR. ZERNHEL: Well, the crossings got removed I
24 suppose when they had their railroad work done out
25 there. They took the tar off the top of them and

1 raised the rails up I guess. And they never, like
2 you said, can't get back in there. Yeah. Some of
3 these are dirt roads, and I understand they can't
4 get back. But when farming starts that's the time
5 the roads will be dry and you can get up and down
6 them roads. And if the crew's coming through there,
7 they should be able to get back there.

8 MR. FARKAS: Do you know when those signs were
9 put up, the road closed signs?

10 MR. ZERNHEL: Last -- late summer, fall,
11 sometime in there probably.

12 MR. FARKAS: Okay.

13 MR. ZERNHEL: They'll be taken down. The
14 farmers are going to take them down to get back
15 through there. They got to work. I mean, they're
16 going to have to get them signs moved from the
17 corners.

18 MR. WEAVER: I'm going to remove one
19 of them tomorrow.

20 MR. ZERNHEL: I mean, you can't close the road
21 off for agricultural just because the railroad
22 crossing's out down there right now. I mean, they're
23 going to have to be taken down. Then if a public car
24 goes down through there and gets up in through
25 there whose liability is that going to be.

1 MR. FARKAS: Is there anybody else that wants
2 to make a public statement? Yes, sir.

3 MR. WEAVER: Gene Weaver, W-e-a-v-e-r, 3482
4 Weston Road, Custer.

5 (Whereupon, Mr. Weaver was placed under oath by the court
6 reporter.)

7 MR. WEAVER: I've got a farm on the Hockenberry
8 Road and it's also on Prairie View Road, the other
9 road they're talking, which is a stone road. And
10 we got to get from eighteen to there over to the
11 Hoytville Road. We use those roads all the time
12 for farming purposes. And I can't see why they
13 can't at least be a farming crossing. Some type of
14 crossing that we can get our equipment across.
15 Because, I'll tell you what, right now Milton Road
16 and Custer Road is not acceptable for farm machinery.
17 You can't see a car from the other side of the
18 crossings. Right now.

19 In other words, the height of the railroad
20 track is probably five to six foot higher than the
21 main base of the road on those two roads.

22 Just like today I was taking a corn planter
23 down across on Custer Road and I could not see the
24 car on the other side sitting in the tractor cab.
25 So I had to back off and I let the car come out and

1 then I went across with the tractor and the corn
2 planter.

3 MR. FARKAS: Okay. Is there anyone else that
4 wants to make a public statement?

5 MS. GORDON: This is what you promised us a
6 few years ago and that's what I want to come to
7 you about tonight.

8 MR. FARKAS: Wait a minute.

9 MS. GORDON: It's about the railroad crossing
10 closing them.

11 MR. FARKAS: Wait. You have to state your
12 name and --

13 MS. GORDON: Donna Gordon, 20155 West Church
14 Street, Hoytville, Ohio.

15 (Whereupon, Ms. Gordon was placed under oath by the court
16 reporter.)

17 MR. FARKAS: Okay.

18 MS. GORDON: When you closed the railroad
19 crossing here in Hoytville on Railroad Street by
20 the elevator you promised the Village of Hoytville
21 that you would build a sidewalk on the north side
22 of the tracks, railroad tracks, to the city park.

23 MR. FARKAS: Now, wait a minute. Are you
24 talking about CSX?

25 MS. GORDON: Yes, I am.

1 MR. FARKAS: Okay. I'm not with CSX. I'm
2 with the Public Utilities Commission. I'm not --

3 MS. GORDON: I thought you were the
4 railroad.

5 MR. FARKAS: No.

6 MS. GORDON: Oh.

7 MR. FARKAS: If you have a concern about
8 something with respect to CSX, there is a
9 representative here from CSX, and I'm sure he'd be
10 happy to discuss that with you.

11 MS. GORDON: I'd love to talk to him.

12 MR. FARKAS: Okay. I'm sure he'd be more than
13 happy to talk to you. Did you have any comments
14 about these particular crossing applications?

15 MS. GORDON: Emergency vehicles, fire trucks
16 is what I was thinking about. They're going to have
17 to go so far. Say there's a combine caught fire
18 out in the field. You know you want to get there the
19 quickest way you can. And when you close these
20 crossings, you have to go way out a mile square to
21 get to them.

22 MR. FARKAS: What kind of vehicle would be
23 used on --

24 MS. GORDON: Combines catch fire once in a
25 while.

1 MR. FARKAS: No, no. What kind of vehicle
2 would be used to put a fire out of that magnitude.

3 MS. GORDON: A fire engine.

4 MR. FARKAS: And could a fire engine cross over
5 these crossings?

6 MS. GORDON: Well, I would imagine if they had
7 to.

8 MR. GEORGE: If you can get across them.

9 MR. FARKAS: Is there anybody else that wants
10 to make a statement? Okay. Yes, ma'am.

11 MS. HOLMES: My name is Linda Holmes. I'm with
12 the Wood County Prosecutor's Office, and I'm an
13 assistant civil prosecuting attorney. I swear to
14 tell the truth, the whole truth and nothing but
15 the truth and I'm an attorney and I don't even have
16 to take the oath, but, I will and I do.

17 A couple of things here. I really question
18 whether or not you can close this railroad crossing
19 without the commissioners actually closing at least
20 that portion of the road that is over the crossing.
21 Because that's -- the county commissioners have
22 responsibility for all improvements, creating new
23 roads and vacating them. And so in essence you
24 would be vacating that part of the road at the
25 crossing. And I don't think you could do this

1 unilaterally. I think you're going to have to
2 have cooperation of the commissioners to do it.

3 MR. FARKAS: Are you speaking of county
4 commissioners?

5 MS. HOLMES: Yes.

6 MR. FARKAS: Okay. My understanding is the
7 county has put road closed signs on these roads.

8 MS. HOLMES: No. I think these are township
9 roads. And I think that those roads were put --
10 those signs were put there because of the
11 condition of the crossing. In other words, they
12 deemed those -- the road not to really be -- did
13 the county put it there?

14 (Whereupon, several individuals were making comments
15 simultaneously.)

16 MR. FARKAS: Do you know?

17 MS. HOLMES: No, I don't know.

18 MR. FARKAS: Sir, just a second. You can make
19 a statement.

20 MS. HOLMES: I apologize. I assumed the
21 township put the signs up there because I know
22 there are times when the dirt roads are impassable
23 because of weather conditions. And so signs will
24 go up that will say road closed. When wet, for
25 instance.

1 But I think -- and I have to say that I have
2 dealt probably seven or eight years ago with
3 Jackson Township over the problem that the railroad
4 refuses to help level the approaches on the
5 existing crossings that are even paved. And it's
6 my opinion that not only do they have to maintain
7 the crossing between the rails which the railroad's
8 as a general rule done. But they have to level these
9 approaches.

10 And if you're -- and I'm curious if you're going
11 to close these crossings -- I know there's a federal
12 program that for every crossing that gets closed
13 that there's federal dollars, a hundred and thirty
14 thousand was the figure that I recall, that was made
15 available. And various jurisdictions that had roads
16 that needed approaches that could be improved to
17 create this camel, or prevent this camel, back
18 problem would then, you know, be solved by this.

19 So I'm curious whether, first of all, whether
20 or not there will be any money that would be
21 forthcoming to Jackson Township. That's my first
22 question.

23 My second question is obviously this is a
24 farming community. It's the most important industry
25 to this area. And when you close three of six

1 crossings you're going to hurt the pocketbooks of,
2 you know, a large part of this community. And I
3 know that in other places where roads have been,
4 you know, vacated the roads that leads to the
5 crossing, at least the crossing was maintained as
6 an agricultural crossing. And it was blocked off
7 so that farmers could access it to get across the
8 tracks. In other words, it was maintained as an
9 agricultural crossing only.

10 And, as I understand it, and I'm not sure if
11 this part is correct, but there was some sort of
12 barricade that was put up that only the farmer,
13 you know, would be able to -- if it's a chain with
14 a lock on it, you know, but the farmer has the
15 only ability to get across the tracks.

16 I don't know that many people use these
17 dirt roads other than the farmers to access their
18 fields.

19 So that seems to me to be the solution that
20 would -- is a win-win for everyone. So the
21 farmers could continue to get across the tracks.
22 You would only be maintaining. And maybe you
23 could work out, with less traffic, I don't know
24 there would be less traffic, but at least if you
25 maintain between the rails and there was only

1 those agricultural users crossing it, you limit
2 your exposure for liability with the trains.
3 The farmers still get to use it.

4 I'd love to see this community get that
5 money to level out the approaches. It's only been
6 three or four years ago that a late model
7 Cadillac got hung up on one of these crossings.
8 That's how camel-backed they are. And one of
9 these days some low bellied hog carrier is going
10 to get hung up and one of your trains is going
11 to come down. And I'm not going to be the
12 least bit sympathetic to the railroad because
13 they have not met their obligation to level this
14 approach.

15 And so this is -- you're wanting to close
16 these crossings. I mean, I personally somewhat
17 understand. But I think that you owe something
18 to this community, recognition that it's an
19 agricultural community and these crossings have
20 value to the farmers here. And that they could
21 be maintained as ag only crossings.

22 But also when you raise those rails every
23 three or four years you are making the maintained
24 roads practically impassable for some trucks.
25 In fact, school buses quit using Milton Road

1 because they were afraid of getting hung up on the
2 rails.

3 And the other concern, and I came down here
4 three years ago and took pictures, cause I'll tell
5 you what, we were thinking about suing the railroad.
6 And the township backed me off and said, no, let's,
7 you know, let's see if maybe we can work out
8 something with the railroad.

9 But the other concern is a car coming even on
10 the improved roads towards the railroad track, and
11 some of these roads are narrow, cannot see oncoming
12 traffic. That's how elevated the crossings are.

13 So one of the -- I mean, you know, I feel like
14 it's almost a matter of probability that there's
15 going to be an accident. And I can guarantee you if
16 the township gets sued, I'm going to join the
17 railroad and I'm probably going to join everybody
18 else I can think of. Because this is a problem that
19 has been -- this camel-backed road problem has been
20 created by the railroad. And they have not met their
21 obligation to level these approaches to make those
22 crossings safe.

23 In fact, I got so tired of the townships in this
24 county complaining about this camel-back problem and
25 because every time I contacted the railroad, and I

1 bet I've contacted them four or five times, all
2 they would acknowledge that they were willing to
3 do was to pave in between the rails and maybe two
4 or three feet on either side of the rails. And so
5 I finally wrote to the Attorney General and asked
6 whether she agreed that there was an obligation on
7 the part of the railroad to maintain these
8 approaches. And there is now an Attorney General's
9 opinion that says, actually it says that, we can
10 make a demand on the railroad to do that. And if
11 they don't, that we can have that worked on and
12 it becomes, you know, to charge against the
13 railroad.

14 So I don't want to do that if we can work
15 something out here. I don't want to sue the
16 railroads, but I think that -- I don't think the
17 railroad understands the problems of raising the
18 rails presents for rural communities.

19 Obviously we would not let this condition
20 occur in a metropolitan area. They don't raise
21 the rails in metropolitan areas and create
22 camel-back crossings. But they do it with impunity
23 in rural areas with not a thought to the dangerous
24 conditions that are created on these roads.

25 So I guess my second question is: Why can't

1 -- well, I forget. I think my first was is the
2 money still available. And my second question is:
3 Why can't these be maintained at least as
4 agricultural crossings. I know it's been done
5 before.

6 MR. FARKAS: Okay. Sir, I believe you also --
7 there is someone here from staff that might be able
8 to answer those questions, ma'am. So -- I don't
9 have that information, but we do have people here
10 from the commission staff that might have those
11 answers.

12 MS. HOLMES: And let me make another comment.
13 I know that in Bloom township they closed two
14 crossings and the PUCO made that money available
15 in exchange for an agreement to vacate those
16 crossings. And it was necessary for the
17 commissioners to vacate the road at the crossings
18 because otherwise the road would still exist.

19 MR. FARKAS: Okay. Yes, sir. Did you want to
20 make a public statement?

21 MR. KLINE: Well, I just had a question for you.
22 On the --

23 MR. FARKAS: Okay. Well, you want to state
24 your name for the --

25 MR. KLINE: George Kline, K-l-i-n-e, Hoytville,

1 Ohio. On the signs you're talking about are you
2 talking about the ones that say road closed when
3 wet?

4 MR. FARKAS: No.

5 MR. KLINE: The permanent ones we have up or
6 the big barricades?

7 MR. FARKAS: No. Before the hearing we looked
8 at each -- the roads that access the crossing. And
9 on all three roads from eighteen, State Route 18,
10 going towards the crossing and from the road that is
11 on the southern side going north towards the crossing
12 there are road closed signs right in the middle of
13 the road.

14 MR. KLINE: Okay. Them -- that's what the
15 railroad put up.

16 MR. FARKAS: Okay.

17 MR. KLINE: We put up a road closed when wet
18 for the purpose of catching four wheelers and people
19 that are out obstructing the roadway so we could
20 prosecute them.

21 MR. FARKAS: And by we you mean?

22 MR. KLINE: The township.

23 MR. FARKAS: The township?

24 MR. KLINE: Yes.

25 MR. FARKAS: Is there anybody else here that

1 wants to -- yes, sir.

2 MR. GEORGE: Brendyn George, B-r-e-n-d-y-n.

3 George is the last name. 22604 Hoytville Road. And

4 I'm a trustee.

5 (Whereupon, Mr. George was placed under oath by the court
6 reporter.)

7 MR. GEORGE: Just a statement that I would like
8 to see them stay open as an agricultural crossing.
9 That enables farmers and emergency equipment if
10 needed. I stated earlier that beings this is a
11 switch rail trains park here pretty regularly and
12 that would give us more options of crossings to get
13 equipment across.

14 And also with this camel-backing that these
15 crossings have done to us on the paved roads. The
16 township trustees have took it onto their own to
17 raise the approaches on three crossings out of our
18 own funds just to make it so it had some decent
19 crossings for people to get across with vehicles and
20 everything else. And the railroad's not helped us
21 fund them at all. And if you went across some
22 of them, you can see our employees have done a
23 pretty good job of them. Well, some of them's been
24 done ten years now. Well, now they're raised
25 another foot and a half so we need an approach

1 to an approach now. They got to quit raising the
2 rails.

3 MR. FARKAS: Okay. Why don't you state your
4 name for the record.

5 MR. ALLION: My name's Tony Allion. You spell
6 it A-l-l-i-o-n. I'm the Wood County Engineer, One
7 Courthouse Square, Bowling Green, Ohio.

8 (Whereupon, Mr. Allion was placed under oath by the court
9 reporter.)

10 MR. ALLION: You have particular questions that
11 you'd like to ask --

12 MR. FARKAS: Yes. The --

13 MR. ALLION: -- to clear up the closed crossing
14 thing?

15 MR. FARKAS: Yes.

16 MR. ALLION: Last fall when the railroad was
17 coming through the county they wanted to do
18 improvements to the crossings. They routinely call
19 our office and get permission to close the crossings
20 for a short period of time while they're doing that
21 maintenance. We in turn notify the township that
22 that work is going to be done. The primary reason
23 why they call our office is because they can get us
24 during the day. And they're usually ensured that
25 there's someone available to talk to. That isn't

1 always the case in some of the townships. So that's
2 why we've made those arrangements that they can
3 contact us to do these short time closings.

4 Now, we've come to realize because of the
5 condition of the roads that these have been closed
6 for now probably eight months because of access
7 to be able to finish the work. But that is not the
8 normal case when these closings are requested.

9 MR. FARKAS: Okay. And the work you're
10 speaking of is where? Where's the work?

11 MR. ALLION: At the crossing itself.

12 MR. FARKAS: At the crossing itself?

13 MR. ALLION: Right. When there's repair to
14 ties or just the general maintenance that they're
15 doing to the rails and maybe there's work that
16 needs to be done then to the crossing to upgrade
17 it or improve it. That's the kind of work we're
18 talking about. And normally it's a two or three day
19 process. Sometimes they're closed for a week because
20 they're doing multiple crossings in a row and
21 they'll come and do parts of them as they go and
22 then come back and finish it up. So it takes a week
23 to do it. But very seldom is it any longer than
24 that.

25 MR. FARKAS: So the signs that are at the roads

1 are those county signs?

2 MR. ALLION: No. They were put up by the
3 railroad.

4 MR. FARKAS: So the railroad owns the signs
5 to your knowledge.

6 MR. ALLION: I actually think they hire a
7 contractor that does that but it was through the
8 railroad. They pay the contractor to put the
9 signs up.

10 MR. FARKAS: Has anybody from the township
11 contacted you or anybody else from the county about
12 why the roads are still closed?

13 MR. ALLION: We've had that conversation two or
14 three times in the last eight months about when are
15 they going to get back to get those cleaned up.

16 MR. FARKAS: And what's the response of the
17 county?

18 MR. ALLION: Usually we make an effort to
19 contact the railroad and see what the hold up is,
20 what reasons they've given, and I think we've
21 heard the reason tonight that we've usually heard.
22 As soon as they're able to get in to those
23 crossings and get them repaired they will do
24 that.

25 MR. FARKAS: And since they're township

1 roads how does the county close a township road or
2 authorize someone else to close a township road?

3 MR. ALLION: Because it's as temporary as it
4 is we have just made that arrangement with the
5 trustees as well as with the railroad that because
6 we're available to give them permission and then we
7 can pass it on to the different townships that
8 they're going to have a temporary closure for some
9 maintenance work we've worked that out.

10 MR. FARKAS: So is there such an arrangement
11 with respect to these three roads?

12 MR. ALLION: I thought there was that general
13 arrangement with any of the crossings that we've
14 had.

15 MR. FARKAS: Okay.

16 MS. HOLMES: I think too you have to -- there's
17 a difference here between vacating a road and
18 temporarily closing it for work. I'm saying that
19 if you want to close this crossing, you're going to
20 have to vacate that road at least at the crossing.
21 And that's what I'm saying requires the county
22 commissioners action in my opinion.

23 Now, contacting -- apparently the railroads
24 have contacted the county. The county as an
25 accommodation to the township has agreed to be the

1 contact person when the railroad needs to
2 temporarily close a road because of work at the
3 crossing. But I just wanted to distinguish between
4 what you're talking about closing signs that were
5 okayed by the county and actually vacating the road
6 at the crossing if you're going to close the
7 crossing.

8 MR. FARKAS: Well, I was simply making a
9 statement as to what I observed and nothing more than
10 that.

11 MS. HOLMES: I just didn't want there to be any
12 confusion over the use of different words.

13 MR. FARKAS: Okay. Thank you. Yes, sir.

14 MR. SHEEKS: Matthew Sheeks, S-h-e-e-k-s, 22288
15 Hancock Wood Line, Deshler. I just want to say --
16 (Whereupon, Mr. Sheeks was placed under oath by the court
17 reporter.)

18 MR. SHEEKS: I'm also a Jackson Township trustee
19 and some of our local farmers couldn't be here
20 tonight because the weather is finally fit to do
21 some work, but they expressed to us that they would
22 like to see those crossings left open as an
23 agricultural crossing because they have farms
24 on both sides. I mean, that's basically what they're
25 asking. Nothing fancy. Just so they can get

1 across with the tractor. So I just wanted to state
2 that. That there's more people that have concerns
3 that couldn't be here.

4 MR. FARKAS: Do you happen to know how many
5 individuals might own farms that are on both sides
6 of these crossings?

7 MR. SHEEKS: Quite a few, yes, actually.

8 MR. FARKAS: Ten, twenty? Do you have a guess
9 as to --

10 MR. BRENDYN GEORGE: Can I clarify maybe -- do
11 they own farms here or do you want the adjoining farm
12 that is split by the railroad?

13 MR. FARKAS: Well, all that information would
14 be helpful if you have that information available.

15 MR. BRENDYN GEORGE: Well, if you're going to
16 farms here and farms there, it's just endless.

17 MR. FARKAS: I think what I'd like to know is
18 people that own farms that are on both sides of
19 the crossing.

20 MR. BRENDYN GEORGE: That about the crossing.

21 MR. FARKAS: Correct. On both sides.

22 MR. BRENDYN GEORGE: I know of one.

23 MR. EUGENE GEORGE: Ours is forty six acres,
24 forty seven on each side.

25 MS. HOLMES: Well, can I make a comment? Linda

1 Holmes again.

2 MR. FARKAS: Yes.

3 MS. HOLMES: I don't think it would make any
4 difference if they're public roads. They could all
5 use those roads and those crossings to get back and
6 forth to their respective fields whether the fields
7 are immediately adjacent to the railroad tracks or a
8 half a mile or a mile away. I mean, if it's the
9 quickest way to get the farm equipment to the fields,
10 since those are public roads, they can get across.

11 MR. SHEEKS: Well, not just quickest. Also the
12 safest. Not necessarily the quickest like Linda was
13 saying but safest also, to keep that slower, wider
14 machinery off the paved road and go down a dirt
15 road. I think that's why a lot of them do it too
16 for safety reasons.

17 MR. FARKAS: Anyone else? Okay. Let's go
18 off the record for a second.

19 (Whereupon, an off-the-record discussion was had.)

20 MR. FARKAS: Let me ask is there anybody else
21 that wants to make a public statement or a further
22 statement than what they've said before?

23 (Whereupon, there was no response from the audience)

24 MR. FARKAS: Note that for the record. And
25 allow the railroad to make a statement at this

1 time.

2 MR. MEEKS: Mark Meeks for the record. Many
3 of the comments that were made tonight while
4 certainly are dear to the hearts of those who
5 spoke about them aren't necessarily pertinent to
6 the issues of the three crossings at issue here
7 which is to simply determine whether it be
8 unreasonable inconvenience to the public by
9 closing of these crossings. There's some other
10 issues which have been raised which have been
11 raised for the first time. To my knowledge there's
12 been no request for an agricultural crossing in
13 this area. So those are issues which we have not
14 considered.

15 I think for the most part the issues that
16 have been raised are ones that have been addressed
17 by the PUCO and the railroad. And we obviously
18 understand that some people use these roads and
19 they will, if they are closed will, have to use
20 other roads. That's the nature of when crossings are
21 closed. Someone now has to use a different crossing
22 and that's expected. And I think that is, under
23 the statute that is, also expected as will be a
24 consequence of closing the crossing.

25 And the issue is not whether someone will have

1 to go a different way but whether it's an
2 unreasonable burden on the public if it is closed.

3 So I think I'd just make those notations.
4 And obviously after the meeting there's some other
5 issues that people want to raise with me I might
6 be able to pass on the information to the correct
7 people. But dealing with these particular
8 crossings I think they've been pretty well covered
9 already.

10 MR. SHEEKS: We're off the record now?

11 MR. FARKAS: No. We're still on the record.

12 MR. SHEEKS: As far as just respond to him
13 us as trustees were just sent a letter saying these
14 crossings were going to be closed. And so we
15 never really had a chance to ask for an agriculture.
16 We were just told that they were going to be closed
17 through this letter. That's why we contacted the
18 prosecutor's office and we were told there would have
19 to be this public hearing. There was never a chance
20 for a response to say, well, could you give us an
21 agricultural crossing or --

22 MR. FARKAS: Yes, sir.

23 MR. ZERNHEL: Dan Zernhel. Who would have sent
24 the letter out? I mean, like to us that would have
25 come. Where would that letter have come from that

1 -- that we got notified that these closings was
2 going to be in this hearing.

3 MR. FARKAS: If you want to discuss particular
4 questions you have on that, probably the best time
5 to do that is after the hearing when you can
6 directly address those questions. But really we're
7 just here to, main purpose is to, just get comments
8 which we have heard. And before I close it I'll
9 just ask one more time if there's anybody else that
10 wants to make a public statement or a further
11 statement?

12 (Whereupon, there was no response from the audience.)

13 MR. FARKAS: And hearing no request and seeing
14 no one else, then we'll close the record at this
15 time and adjourn the hearing. And thank everyone
16 for coming out tonight. I appreciate it. And
17 thank you for letting us use your building here
18 to have this public hearing. That's it.

19 (Whereupon, the hearing was concluded at approximately
20 6:44 p.m.)

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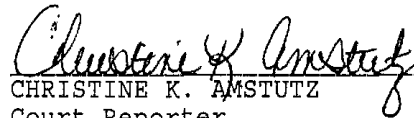
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C E R T I F I C A T E:

I do hereby certify that the foregoing transcript is a true and accurate transcription to the best of my ability of the proceedings had in the aforementioned case.



CHRISTINE K. AMSTUTZ

Court Reporter

Notary Public

My commission expires: 6-9-03