

FILE

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October 13, 2009

Renee J. Jenkins
Secretary
The Public Utilities Commission of Ohio
180 East Broad Street
Columbus, OH 43215-3793

Re: Weed and Vegetation Complaint by the Ohio State Legislative Board,
United Transportation Union
Case Nos.: 09-814-RR-CSS, 09-815-RR-CSS, 09-816-RR-CSS, 09-818-
RR-CSS, 09-817-RR-CSS

Dear Ms. Jenkins,

In several letters dated September 14-15, 2009 and addressed to Ms. Leah Thomas-Dalton, Chief of the Transportation Department - Railroad Division of the Public Utilities Commission of Ohio, the Ohio State Legislative Board, United Transportation Union, through its Chairman, Joseph A. Boda, Jr., alleged that Norfolk Southern Railway Company ("NSRC") "permitted unsafe and hazardous conditions to arise due to the excessive growth of weeds and vegetation on its property." The tracks described in the complaint are in the vicinity of Circleville, Pickaway County, OH, Sargents, Pike County, OH, Piketon, Pike County, OH, Chillicothe, Ross County, OH, and Columbus, Franklin County, OH.

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

NSRC, 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. This letter is intended merely to advise the PUCO that all weeds and vegetation at the property cited

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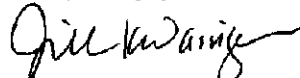
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are in the process of, or have already been, eliminated. Therefore, NSRC respectfully requests prompt dismissal of all of the complaints.

Please date stamp and return to me the extra copy of this answer. A stamped, self-addressed envelope is enclosed for your convenience. If you have any questions, please do not hesitate to contact me.

Very truly yours,



Jill K. Wainger

Enclosures

cc: Joseph A. Boda
Chairman & State Legislative Director
Ohio State Legislative Board
United Transportation Union
Suite 245, 2021 East Dublin - Granville Road
Columbus, OH 43229-3522

Leah Thomas-Dalton, Chief
Transportation Department, Railroad Section
The Public Utilities Commission of Ohio
180 East Broad Street, 5th Floor
Columbus, OH 43266-0573

**Via Certified Mail,
Return Receipt Requested**