

FILE

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2011 AUG 23 AM 10: 55

Public Utilities
Commission of Ohio

PUCO

Memo

To: Docketing Division
From: Leah Thomas-Dalton, Chief, Rail Division
C: Legal Department
Re: PUCO case No. 11-4094-RR-CSS – Alleged unsafe conditions caused by vegetation overgrowth along the Right-of-Way between MPS 15 to MPS 3 of the Sandyville Line
Date: August 22, 2011

The Rail Division Staff was able to successfully mediate this matter. It is therefore recommended that the legal staff proceed with an entry to close the above case.

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.
Technician TM Date Processed AUG 23 2011

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

Date of Assignment: July 28, 2011

Date of Inspection: July 28, 2011; August 2, 2011; August 8, 2011; August 9, 2011; August 11, 2011; August 17, 2011

Subject: 11-4094-RR-CSS - Alleged Unsafe Conditions Caused by Vegetation Overgrowth along the Right of Way between MPS 15 to MPS 3 of the Sandyville Line.

FINDINGS

On July 28th I emailed the complainant that I was in receipt of the complaint and that I had contacted Mr. Kasey O'Connor, Vice President Engineering, Wheeling Lake Erie Railroad to arrange for a hi-rail inspection trip over the area of the complaint. Due to scheduling conflicts I notified the complainant on August 2nd that the inspection trip would need to be rescheduled and that I would notify him of the new date.

On August 8th I received a letter from Mr. Ken Malone, Superintendent of Safety, Rules, and Training, Wheeling Lake Erie Railroad (see attached) stating that an inspection by the railroad found some locations where "vegetation is getting close to the edge of the ties and mainly trees" but disputes the claim that there are vegetation issues from MPS 15 to MPS 3. Mr. Malone said that the railroad would bring in brush cutting equipment and have it address the areas that the railroad's inspection had identified as being close to the ties. The next day I emailed the complainant saying that in light of the letter from Mr. Malone I would schedule the inspection trip after the brush cutting equipment was clear of the area. On August 11th I notified the complainant that the inspection trip was arranged for August 17th.

On August 17th I met with the Mr. Ken Malone, Mr. Jim Gonzales, engineering consultant, Mr. Gary Ott, track/welding supervisor, and Mr. Mark Svetlich, assistant

Roadmaster at Brewster yard. After waiting to see if the complainant or a representative would join us, a safety briefing was conducted and we departed by hi-rail vehicles to the Sandyville line and conducted an inspection. During our trip I identified areas where recent trimming was evident. There were no areas along the line that had vegetation overgrowth.

CONCLUSIONS & RECOMMENDATIONS

Any vegetation issues between MPS 15 and MPS 3 have been addressed. The complaint should be closed.

Joe Dunn
PUCO/FRA Safety Inspector
August 18, 2011

Attachment:

Copy: Mr. Ken Malone, Superintendent Safety
100 East First St.
Brewster Oh 44613

Mr. Kasey O' Connor, VP Engineering
100 East First St.
Brewster Oh 44613

rec'd 8-8-11

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PUBLIC UTILITIES
COMMISSION OF OHIO
WHEELING & LAKE ERIE RAILWAY COMPANY

2011 AUG -3 AM 7:00

Kenneth D. Malone
Superintendent of Safety, Rules, and Training
RAIL DIVISION

100 East First Street
Brewster, OH 44613

330-767-7243

Fax: 330-767-7003

July 28, 2011

Public Utilities Commission of Ohio
Case No: 11-4094-RR-CSS
180 E. Broad St.
Columbus, Ohio 43215

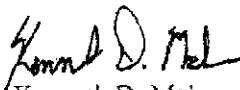
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2011 AUG -1 PM 2:36
PUCO

To Whom It May Concern,

This letter is in regards to the complaint filed by the BLET against the Wheeling and Lake Erie Railway concerning over grown vegetation on the Cleveland Subdivision, Sandville Line between mileposts MPS 15 and MPS 3.

The area where the alleged over grown vegetation exists was inspected and some locations between mileposts MPS 15 and MPS 3 do have areas where the vegetation is getting close to the edge of the ties namely trees. The entire line does not have overgrown vegetation as stated in the complaint filed by the BLET. the complaint also stated "*riding the side of equipment is impossible and further any individuals walking along the right of way would have no ability to egress the tracks should a train approach*", concerning the riding of the side of equipment. during our inspection we found no areas where the brush protruded far enough over the track to prevent anyone from safely riding the side of equipment. also there were absolutely no locations between said mileposts where an individual walking along the right of way would not have the ability to egress the tracks should a train approach.

The Wheeling and Lake Erie Railway will begin to move brush cutting equipment under its own power from Pittsburgh, Pennsylvania beginning August 1st, 2011, and will tentively have it in place to start cutting the locations between MPS 15 and MPS 3 on the Cleveland Subdivision, Sandville Line, that were identified during our inspection on or about August 8th, 2011.


Kenneth D. Malone

Cc: BLET