

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Petition of)
CSX Transportation Inc. to Close to)
Vehicular Traffic the Bloomingrove/New) Case No. 14-379-RR-UNC
Winchester Road Grade Crossing (DOT No.)
262042J), Located in Washington Township,)
Morrow County, Ohio.)

OPINION AND ORDER

The Commission, considering the applicable law and evidence of record, and being otherwise fully advised, hereby issues its opinion and order in this matter.

APPEARANCES:

Dickie, McCamey & Chilcote, P.C., by R. Leland Evans and Eric Thompson, 2109 Stella Court, Columbus, Ohio, 43215, on behalf of CSX Transportation, Inc.

Morrow County Prosecuting Attorney, by Charles S. Howland, 60 East High Street, Mt. Gilead, Ohio, 43338, on behalf of Morrow County, Ohio.

I. BACKGROUND

R.C. 4907.474 provides that the Commission is vested with the statutory authority to close rural grade crossings not on state highways pursuant to R.C. 4907.475. This section requires that an applicant seeking to close a railroad grade crossing must demonstrate that there is not a demonstrable need for the grade crossing to exist.

While the term "demonstrable need" is not specifically defined, R.C. 4907.474 provides that, in making that determination, the Commission shall consider the following: the daily vehicular and train traffic at the crossing and at alternate crossings; the increase in vehicular traffic at alternate crossings resulting from the crossing closure; the nature of the roadway at any alternate crossings; the total number of crossings within one linear mile of the crossing to be closed; the type of warning devices and sight distances at alternate crossings; the impact of the closure on vehicular traffic, emergency vehicles, commercial enterprises, and municipal corporations and other populated areas; and any other factor the Commission determines appropriate.

Additionally, the Commission will evaluate the safety of the crossing and whether it poses a danger to the public. As we have noted in previous cases, "[g]rade crossing safety

has been an essential part of the Commission's regulatory mission and the Commission has worked extremely hard to keep safety concerns at the forefront of railroad development in Ohio * * *. Each year, the Commission considers whether to approve applications for closure of railroad grade crossings as well as applications for grade crossing safety improvement projects. Our evaluation of those applications always is undertaken in the ultimate effort toward increasing the safety of motorists and pedestrians." *In re Indiana & Ohio Railroad, Case No. 02-580-RR-UNC, et al., Opinion and Order (Oct. 13, 2004) at 12.*

II. PROCEDURAL HISTORY

On March 7, 2014, CSX Transportation, Inc. (CSX), a railroad as defined in R.C. 4907.02 and subject to the jurisdiction of the Commission under R.C. 4905.04, filed a petition to close to vehicular and pedestrian traffic the grade crossing located at the Bloomingrove/New Winchester Road Grade Crossing, DOT No. 262042J, (B/NW Crossing) located in Washington Township, Morrow County, Ohio. The B/NW Crossing is located on Bloomingrove/New Winchester Road (B/NW Road), which is also known as Crawford-Morrow Line Road and County Line Road, and is the boundary between Crawford and Morrow counties. However, the B/NW Crossing is located entirely within Morrow County. The B/NW Crossing consists of two sets of tracks separated by a span of approximately 53 feet. The B/NW Crossing is passively equipped with crossbucks but is not equipped with flashing lights or gates.

On April 30, 2014, and May 2, 2014, the Morrow County Commissioners and the Crawford County Commissioners, respectively, filed objections to CSX's petition. The objections filed by the Commissioners were primarily regarding emergency service provider response times, impacts to nearby crossings, and CSX's real motivations for closing the crossing. By Entry issued June 12, 2014, the attorney examiner scheduled local public hearings in Morrow and Crawford counties on July 15, 2014. Legal notices of the local public hearings were published in the *Bucyrus Telegraph Forum* and the *Morrow County Sentinel*, newspapers of general circulation in Crawford and Morrow counties, respectively. At the public hearings, 19 witnesses provided sworn testimony. Thereafter, an evidentiary hearing was held on March 3, 2015. CSX filed a post-hearing brief on April 2, 2015.

III. LOCAL PUBLIC HEARING

As indicated above, in our determination of whether there is a demonstrable need for the continued existence of the B/NW Crossing, we consider both the testimony of the public witnesses at the local public hearings and the record evidence from the evidentiary hearing.

At the public hearings, 19 witnesses provided testimony and all of the witnesses opposed CSX's application and supported keeping the crossing open. The concerns about

closing the crossing included: impacts to farm operations, making school bus routes longer, making snow removal difficult if the road becomes a cul-de-sac, and increased fire, police, and emergency medical service response times. Additionally, numerous witnesses alleged that the crossing is often unusable because CSX uses the crossing as a siding to park trains, which blocks the crossing. The witnesses argued that the crossing should not be closed so that CSX can park its trains there, rather, the crossing should remain open and CSX should be prohibited from blocking it. However, the witnesses also noted that the B/NW Crossing is an unusual, and potentially dangerous, crossing. The B/NW Crossing contains two sets of tracks separated by a long span and has an unusual angle of approach that makes it difficult to look for approaching trains.

IV. EVIDENTIARY HEARING

At the evidentiary hearing, CSX provided evidence on each of the factors that the Commission uses to determine whether there is a demonstrable need for a crossing to exist. Amanda DeCesare testified on behalf of CSX in support of closing the B/NW Crossing. Further, the attorney examiner admitted as testimony, without objection, the depositions of EMS Chief Jeffrey Sparks of the Morrow County Firefighters and Squadsmen Association, Sheriff Steven Brenneman of Morrow County, Northmor Schools Transportation Director Dean Van Horn, Sheriff Scott Kent of Crawford County, Chief Brian Saterfield of Galion City, Chief Phillip Jackson of the Galion City Fire Department, Assistant Chief Steve Smith of the Iberia Volunteer Fire Department, and Patrick Duffner of the Galion City Schools and Ontario City Schools Transportation Departments. Additionally, the attorney examiner admitted the deposition testimony of Rick Fox, who is the owner of the residence adjacent to the B/NW Crossing.

A. Daily vehicular and train traffic at the crossing and at alternate crossings

The B/NW Road is a two-lane rural road which maintains a low volume of vehicular traffic. The B/NW Crossing crosses two sets of main tracks, which are separated by a distance of approximately 53 feet and are each operated by CSX (CSX Ex. 16 at 7). The B/NW Road briefly runs parallel to the tracks before turning to approach the B/NW crossing at an approximately 90 degree angle.

CSX estimates in its petition for closure that approximately 121 to 184 vehicles cross the B/NW Crossing on a daily basis (Tr. at 52; CSX Ex. 22 at 2). Additionally, CSX estimates that approximately 20 trains pass through the B/NW Crossing on a daily basis. However, Ms. DeCesare testified on behalf of CSX that the number of trains that pass through the B/NW Crossing has increased since CSX filed its petition for closure. She testified that current estimates indicate closer to 26 trains pass thorough the B/NW Crossing per day (Tr. at 52; CSX Ex. 22 at 2-3). Additionally, CSX asserts that the typical speed range over the crossing is 55 to 60 miles per hour, though, at the public hearings, local residents disputed

whether trains actually travel through the crossing at this speed (CSX Ex. 22 at 2-3; Tr. at 37; Public Hearing Transcript (filed Aug. 7, 2014) at 12, 36, 74).

There are three alternate crossings to the B/NW Crossing, specifically, at Keifer Road, which is located 1.2 miles to the southwest, at Biddle Road, which is located approximately 0.5 miles to the northeast, and at Route 61/State Route 309 (Route 61), which is located approximately 1.15 miles to the northeast (Tr. at 53-57; CSX Ex. 22 at 3). The estimated daily vehicular traffic at the Keifer Road crossing, according to the USDOT Crossing Inventory and the Commission's records, is approximately 116 to 131 vehicles per day (Tr. at 54-57; CSX Ex. 22 at 3, Ex. 3, and Ex. 4). The estimated daily vehicular traffic at the Biddle Road crossing is approximately 274 vehicles per day, and the estimated daily vehicular traffic at the Route 61 crossing is approximately 6,623 to 6,700 vehicles per day (Tr. at 53-54; CSX Ex. 22 at 3, Ex. 5, 6, 7, and 8). Because the same CSX railroad track passes through all three grade crossings, the daily train count is approximately the same at all three grade crossings (CSX Ex. 22 at 3, Ex. 4, Ex. 6, and Ex. 8).

B. The daily increase in vehicular traffic at alternate crossings resulting from the crossing closure

As indicated above, CSX asserts in its petition for closure that approximately 121 to 184 vehicles cross the B/NW Crossing each day. If the B/NW Crossing is closed, the three alternate crossings would share the impact of these additional crossings (Tr. at 52, 55; CSX Ex. 22 at 2-3). No evidence was presented regarding whether traffic diverted from the B/NW Crossing would be more or less likely to use either alternate grade crossing.

C. Total number of crossings within one linear mile of the B/NW Crossing

There are three crossings near the B/NW Crossing, one of which is located within one linear mile of the B/NW Crossing. The grade crossing at Biddle Road is located approximately 0.5 miles to the northeast of the B/NW Crossing. Additionally, the Route 61 and Keifer Road crossings are located just over one mile from the B/NW Crossing. The Route 61 crossing is approximately 1.15 miles northeast of the B/NW Crossing and the Keifer Road crossing is approximately 1.2 miles southwest of the B/NW Crossing. Accordingly, while there is only one other crossing within one linear mile of the B/NW Crossing, there are three alternate crossings that would share in the additional vehicular traffic resulting from closure of the crossing. (Tr. at 53-57; CSX Ex. 22 at 4.)

D. Nature of the roadway at the alternate crossings

Each of the alternate crossings has better sightlines than the B/NW Crossing. The B/NW Road runs parallel to the tracks before turning abruptly at the B/NW Crossing to obtain an appropriate angle for crossing. This turn makes it difficult for drivers to obtain a

sightline to check for oncoming trains. Further, the terrain includes a mound that drivers must peer over to check for oncoming trains. However, Keifer Road and Biddle Road are each two-lane rural roads that cross the tracks at a 90 degree angle with good sightlines for oncoming trains. Route 61 is a two-lane state highway. (Tr. at 55-58; CSX Ex. 22 at 4).

E. Type of advance warning devices and sight distances at the alternate crossings

There are no sight obstructions at the Biddle Road, Keifer Road, or Route 61 crossings for a significant distance. The Keifer Road crossing has standard, government-approved crossbucks. The Biddle Road and Route 61 crossings have crossbucks as well as flashing lights and gates. (Tr. at 57-58; CSX Ex. 22 at 4.) Each of these crossings has better sightlines than the B/NW Crossing.

F. Impact of the closure on vehicular traffic, emergency vehicles, commercial enterprises, and any other factors pertinent to municipal corporations and other populated areas

While much of the testimony provided at the public hearings was regarding the impact of closure on increasing emergency service provider response times, CSX argues that closing the B/NW Crossing will not significantly impact emergency service provider response times to the areas surrounding the crossing. CSX asserts that there are alternate routes that are preferable for emergency response.

Regarding police response times, Sheriff Scott Kent of Crawford County, Sheriff Steven Brenneman of Morrow County, and Chief Brian Saterfield of Galion City testified that Crawford County deputies would typically respond to addresses on the north side of B/NW Road and deputies from Morrow County or Galion City would typically respond to the south side of B/NW Road (CSX Ex. 5, Kent Deposition Testimony at 8-10; CSX Ex. 3, Brenneman Deposition Testimony at 9-14; CSX Ex. 6, Saterfield Deposition Testimony at 4-15). However, Sheriff Kent noted that, in the past, deputies have assisted the Sheriff's offices in neighboring counties (CSX Ex. 5, Kent Deposition Testimony at 10). Further, the testimony indicates that police response times would be dependent upon the location of the deputies at the time of a call since deputies are not stationary and do not respond from a particular location. If the B/NW Crossing is closed, alternate routes would be available for police response. If an emergency occurs, the deputy on duty would determine which response route to use to respond to the call. (CSX Ex. 5, Kent Deposition Testimony at 8-31; CSX Ex. 3, Brenneman Deposition Testimony at 9-14; CSX Ex. 6, Saterfield Deposition Testimony at 9-14.)

In regards to fire response times, Chief Phillip Jackson of the Galion City Fire Department and Assistant Chief Steve Smith of the Iberia Volunteer Fire Department testified that there are alternate crossings available for emergency fire response. However,

despite his testimony that there are available alternate routes for emergency response, Assistant Fire Chief Smith noted that the fire department would prefer to leave the B/NW Crossing as it is, rather than close it, so as to maintain the option to use the crossing when other roads have not been plowed in the winter. (CSX Ex. 7, Jackson Deposition Testimony at 4-57; CSX Ex. 9, Smith Deposition Testimony at 6-39; Transcript for Public Hearing, Letter from Iberia Volunteer Fire Co. Inc. (Aug. 7, 2014).) Additionally, Chief Sparks from Morrow County noted that emergency medical services (EMS) and the fire department have alternate routes available for emergency response (CSX Ex. 2, Sparks Deposition Testimony at 7, 22-23, 31).

Further, regarding EMS response, Chief Jeffrey Sparks, who is the EMS Chief of the Morrow County Firefighters and Squadsmen Association, testified that Morrow County EMS would not typically use the B/NW Crossing to respond to emergencies in its service territory. He testified that Morrow County EMS would typically use the Keifer Road crossing. (CSX Ex. 2, Sparks Deposition Testimony at 19-28).

Finally, CSX avers that the B/NW Crossing is a rural crossing with little commercial enterprise in the area. Most of the commercial enterprise in the area consists of farm operations. CSX argues that these operations would not be unduly burdened by closing the crossing. Accordingly, CSX asserts that closure of the B/NW Crossing would have minimal, if any, impact on commercial enterprise in the area. However, Rick Fox testified that trucks use the crossing to get to his farm to purchase hay, and that there are other farms in the area that use the B/NW Crossing. Rick Fox is the owner of the residence immediately adjacent to the crossing, and he noted that there are both pros and cons to closing the crossing. (CSX Ex. 22 at 14-16; CSX Ex. 8, Fox Deposition Testimony at 16-22, 32).

G. Any other factor the Commission determines appropriate

In this case, CSX argues that there are a number of other factors that the Commission should consider relevant in determining whether to grant CSX's petition to close the B/NW Crossing. These factors include the safety hazard caused by the B/NW Crossing, the lack of impact on emergency response, and the lack of impact on commercial enterprise in the area.

Initially, CSX argues that the angle of the B/NW Crossing creates a safety hazard because it provides poor sightlines for school buses and other vehicles to check for approaching trains. Mr. Duffner, the Galion City Schools Transportation Director, testified that he routes school buses around the crossing based upon his concerns that the crossing may be unsafe (CSX Ex. 1 at 16-17). Additionally, Dean Van Horn, the Northmor Schools Transportation Director, testified that a school bus driver must veer left of center to square the bus to the crossing to obtain a good line of sight to check for oncoming trains (CSX Ex. 4, Van Horn Deposition Testimony at 48-49). However, Brent Winand, the Superintendent for the Northmor Local School District, filed a letter at the local public hearing indicating his

concern that closing the crossing would add additional time to the district's bus routes (Transcript for Public Hearing, Letter from Northmor Local Schools (Aug. 7, 2014)). Despite the additional time that may be added to school bus routes, numerous public witnesses provided testimony indicating that the B/NW Crossing presents greater challenges to obtaining adequate sightlines than most crossings (Tr. at 30; CSX Ex. 1, Duffner Deposition Testimony at 17-18; CSX Ex. 3, Brenneman Deposition Testimony at 26; CSX Ex. 5, Kent Deposition Testimony at 31-32; CSX Ex. 7, Jackson Deposition Testimony at 49; CSX Ex. 8, Fox Deposition Testimony at 10).

Finally, CSX asserts that the B/NW Crossing is recognized by the state as being an inherently dangerous crossing. Amanda DeCesare testified that Ohio's hazard ranking for the B/NW Crossing at the time of the diagnostic survey was 454 out of approximately 5,800 crossings. However, Ms. DeCesare testified that at the time of the evidentiary hearing, the hazard ranking for the B/NW Crossing had increased to 110 out of approximately 5,800 crossings in Ohio (Tr. at 35).

V. COMMISSION CONCLUSION AND ORDER

As previously noted, the term "demonstrable need" is not defined in the statute; however, the Commission has historically made the determination as to whether a demonstrable need exists by weighing and balancing the record evidence. In prior cases involving petitions for closure of railroad grade crossings, the Commission has found that a demonstrable need exists when the evidence shows that the crossing is essential, vital, and indispensable to the general public and when its closure would negatively impact the interests and well being of the general community. See *In re CSX Transportation, Inc.*, Case No. 09-125-RR-UNC, Opinion and Order (Oct. 28, 2009) at 8-9. For there to be a demonstrable need for a crossing, the impact of closing the crossing must provide more than just an inconvenience to local residents and motorists. After consideration of the evidence in this case, we find that the evidence shows there is not a demonstrable need for the B/NW Crossing to exist and, therefore, CSX's petition should be granted. In making this determination, we note that we have balanced the concerns raised by trustees and residents of both Crawford and Morrow Counties against CSX's petition for closure. Additionally, we considered the record regarding response times for police, fire, and EMS providers in and around Crawford and Morrow Counties, and the alternate routes available to those emergency service providers. We also considered the profile and composition of the crossing to determine the danger that this crossing presents to local residents and the public. The evidence in this case demonstrates that there is no demonstrable need for the crossing and that it is a particularly dangerous crossing. Accordingly, the evidence demonstrates that the B/NW Crossing should be closed to pedestrian and vehicular traffic.

The evidence demonstrates that the B/NW Crossing is a particularly dangerous crossing. As we indicated above, grade crossing safety has been an essential part of the

Commission's regulatory mission and the Commission works extremely hard to keep safety concerns at the forefront of railroad development in Ohio. In this case, the high number of train crossings, the speed at which the trains travel through the crossing, the lack of flashing lights and gates, the poor sightlines, the unusual angle of approach, and the distance between the sets of tracks make this crossing dangerous. As Patrick Duffner, the Transportation Director for Galion City Schools and Ontario City Schools succinctly stated, "it's not a good crossing." CSX Ex. 1, Duffner Deposition Testimony at 23. The state of Ohio has recognized the dangerous nature of the B/NW Crossing by ranking it the 110th most dangerous crossing in Ohio out of approximately 5,800 crossings (Tr. at 35). While we are sympathetic to local residents and motorists regarding the inconvenience of closing this crossing, the risk of injury or loss of life and the danger of a vehicle being stuck between the two sets of tracks, or on a set of tracks, is too great for us to permit this crossing to remain open. Additionally, as we find below, CSX has met the standard of demonstrating that there is not a demonstrable need for the crossing.

The record demonstrates there is not a demonstrable need for the B/NW Crossing because it is not primarily used by emergency service providers. The B/NW Crossing rests on the county line between Morrow County and Crawford County, and residents of each county are served by emergency service providers within their county. There is a low probability that residents of Crawford County will be served by emergency service providers originating in Morrow County, or that residents of Morrow County will be served by emergency service providers originating in Crawford County. This alleviates the need for emergency vehicles to use the crossing. While we recognize that emergency service providers would prefer to keep the crossing open to have as many routes to an emergency as possible, there are numerous crossings available within close proximity to the B/NW Crossing. Some of the available alternative crossings are already on the primary route for emergency response. Moreover, while emergency service providers would prefer to keep the crossing open to have better access to emergencies on the opposite side of the crossing, it is our desire to prevent an emergency from happening at the crossing itself. Accordingly, the record demonstrates that closing the B/NW Crossing will not unduly burden EMS, fire, or police response to the area surrounding the crossing. (CSX Ex. 2, Sparks Deposition Testimony at 19-28; CSX Ex. 3, Brenneman Deposition Testimony at 9-14; CSX Ex. 5, Kent Deposition Testimony at 8-10; CSX Ex. 6, Saterfield Deposition Testimony at 4-15; CSX Ex. 7, Jackson Deposition Testimony at 4-57; CSX Ex. 9, Smith Deposition Testimony at 6-39.)

Further, CSX demonstrated that B/NW Road is not a through road, and there is a low volume of daily vehicular traffic that uses the B/NW Crossing. For the daily vehicular traffic that does use the B/NW Crossing, there are three available alternate crossings within a short distance of the B/NW Crossing; Biddle Road, Keifer Road, and Route 61. Additional traffic at the other crossings as a result of closing the B/NW Crossing would not significantly increase the number of vehicles that use those alternate crossings. Two of the

alternate crossings, at Biddle Road and at Route 61, are equipped with active warning lights and gates, whereas the B/NW Crossing is only passively equipped with crossbucks. While there may be some additional travel distance as a result of closing the B/NW Crossing, there is insufficient evidence that closing the crossing would create an unreasonable burden to traffic or residents living in the vicinity. Further, Rick Fox, the owner of the residence immediately adjacent to the crossing, testified that there are both pros and cons to closing the crossing. He testified that he certainly supports safety at the crossing. Additionally, he noted that the crossing has historically been used as a dump with trash, couches, televisions, refrigerators, and other items dumped there. (CSX Ex. 8, Fox Deposition Testimony at 31-32).

Additionally, while closing the crossing may extend some school bus routes, the record indicates that school buses already must veer left of center to obtain a good line of sight for oncoming trains (Tr. at 30; CSX Ex. 1, Duffner Deposition Testimony at 17-18; CSX Ex. 3, Brenneman Deposition Testimony at 26; CSX Ex. 5, Kent Deposition Testimony at 31-32; CSX Ex. 7, Jackson Deposition Testimony at 49; CSX Ex. 8, Fox Deposition Testimony at 10). Additionally, even if a school bus does obtain a good line of sight, the B/NW Crossing has two sets of tracks with approximately 53 feet of space between the tracks. This creates the possibility that a vehicle or school bus could get across one set of tracks and be trapped between the two sets of tracks, or even stuck on a set of tracks (CSX Ex. 7, Jackson Deposition Testimony at 50). Further, there is no evidence that additional safety devices would make the B/NW Crossing any safer for vehicles or school buses. Even if additional safety devices were added to the B/NW Crossing, the Commission is concerned that the distance between the two sets of tracks would still create an unusual and dangerous crossing where vehicles or school buses could potentially become trapped on a set of tracks or between the sets of tracks.

Accordingly, we believe that CSX has met its burden of demonstrating that there is not a demonstrable need for the B/NW Crossing and, therefore, the petition to close the B/NW Crossing should be granted. Pursuant to R.C. 4907.474, if after the hearing it is the opinion of the Commission that there is not a demonstrable need for the crossing to exist and that the crossing should be closed, the Commission shall issue an order to the legislative authority of the municipal corporation in which the crossing is located directing it to discontinue the crossing and close it to vehicular traffic or to pedestrian traffic, or both, by ordinance. The legislative authority of the municipal corporation, within 30 days after receipt of the order from the Commission, shall discontinue the crossing and close it to vehicular traffic, or to pedestrian traffic, or both, as specified in the order of the Commission. In this case, the evidence demonstrates that there is not a demonstrable need for the B/NW Crossing to exist and, therefore, it should be closed. While we recognize the concerns of the County Commissioners of Crawford and Morrow counties, as well as the local residents of the counties, this is a dangerous crossing for pedestrians and motorists, and emergency service providers have multiple alternate routes available to them. Further,

while the record demonstrates that the B/NW Crossing is a particularly dangerous crossing, it may remain dangerous even with the addition of warning lights and gates. Accordingly, within 60 days of this opinion and order, Washington Township, Morrow County, Ohio, is directed to issue an ordinance discontinuing the use of the B/NW Crossing and closing the B/NW Crossing to all vehicular and pedestrian traffic.

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

- (1) On March 7, 2014, CSX filed a petition to close the Bloomingrove/New Winchester Crossing.
- (2) On April 30, 2014, and May 2, 2014, Morrow County and Crawford County, respectively, filed objections to CSX's petition.
- (3) Local public hearings were held in Morrow County and Crawford County on July 15, 2014.
- (4) The evidentiary hearing was held at the offices of the Commission on March 3, 2015.
- (5) CSX's petition was filed pursuant to R.C. 4907.474 and 4907.475.
- (6) Proofs of publication of the local public hearings were published in newspapers of general circulation in both Crawford County and Morrow County, Ohio.
- (7) The evidence demonstrates that there is not a demonstrable need for the Bloomingrove/New Winchester Crossing to exist.

ORDER:

It is, therefore,

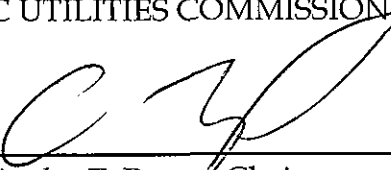
ORDERED, That CSX's petition for closure of the Bloomingrove/New Winchester Crossing be granted. It is, further,

ORDERED, That, within 60 days of this Opinion and Order, Washington Township, Morrow County, Ohio, issue an ordinance discontinuing the use of the B/NW Crossing to vehicles and pedestrians. It is, further,

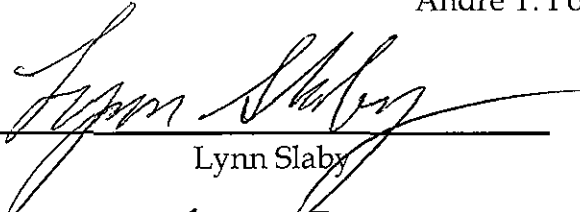
ORDERED, That, within 90 days of this Opinion and Order, Washington Township, Morrow County, Ohio, close the B/NW Crossing to all vehicular and pedestrian traffic. It is, further,

ORDERED, That a copy of this Opinion and Order be served on the Ohio Rail Development Commission, CSX and its counsel, the Morrow County Prosecuting Attorney, the Board of the Morrow County Commissioners, the Crawford County Prosecuting Attorney, the Board of the Crawford County Commissioners, and all other interested persons of record.

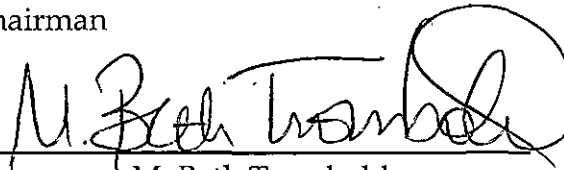
THE PUBLIC UTILITIES COMMISSION OF OHIO



Andre T. Porter, Chairman



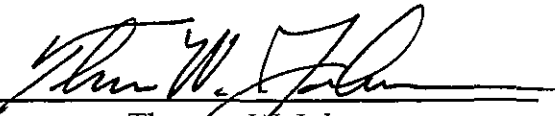
Lynn Slaby



M. Beth Trombold



Asim Z. Haque

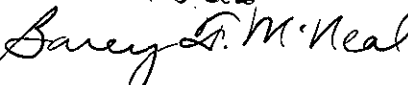


Thomas W. Johnson

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Barcy F. McNeal
Secretary