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January 19, 2016

Via Overnight Mail

Mr. Charles Howland
Morrow County Prosecuting Attorney
60 E. High Street
Mt. Gilead, OH 43338

RE: Closure of Morrow County Crossing, DOT# 262042],
Crawford-Morrow County Line Road, pursuant to
PUCO Opinion and Order dated November 18, 2015 in
Case No. 14-379-RR-UNC
Our File No.:0055786.0343648

RECEIVED-DOCKETING DIV
2016 JAN 21 AM 11:32
PUCO

Dear Mr. Howland:

As you know, the PUCO issued its Opinion and Order in the above captioned matter on November 18, 2015, granting CSX Transportation Inc.'s ("CSX") Petition to close the above referenced grade crossing. No appeal or request for re-hearing was filed by Morrow County and the time for doing so has long since passed. You have confirmed on multiple occasions that it is the County's intention to close the crossing pursuant to the PUCO's Opinion and Order and, based on a recent visit to the crossing, we are aware that a sign has been affixed to the Advanced Warning Sign stating "Crossing Closed Permanently Feb. 12, 2016." Nevertheless, you recently advised that when you presented a proposed Resolution to the County Commissioners closing the crossing, the County Commissioners refused to pass that or any other Resolution closing the crossing.

While the prompt physical closure of the crossing is imperative (indeed, as discussed in my correspondence dated November 25, 2015, given the County's decision not to appeal this ruling and to close the crossing, in the interest of safety, we were hoping closure would have occurred more promptly than required by the PUCO Opinion and Order, which actually provided the County with longer than the 30 day time period provided for in Revised Code §4907.475) and is a significant step in the right direction, the PUCO's Opinion and Order and the applicable statutory framework require that the

governmental authority responsible for the roadway, here Morrow County, issue a Resolution formally closing the crossing.

Ohio Revised Code Section 4907.475 provides in pertinent part:

... If, after the hearing, it is the opinion of the [public utilities] 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 board of county commissions of the county in which such crossing is located directing it to discontinue the crossing and to close it to vehicular traffic, or to pedestrian traffic, or to both, BY RESOLUTION as provided by Sections 5553.01 to 5553.07 of the Revised Code.
(Emphasis Supplied)¹

It is clear pursuant to the above statute and the PUCO's Opinion and Order that appropriate legislation closing the crossing is required. It is not sufficient to informally direct the County Engineer to close the crossing. In addition to the fact that a formal Resolution is required to comply with the statute and the PUCO's Order, I would think the County may have liability concerns if a formal Resolution closing the crossing is not issued. Without such a Resolution, the roadway is not properly/legally closed at the crossing and CSX is concerned that some number of years from now, someone might decide to remove the barriers and "re-open" the crossing.

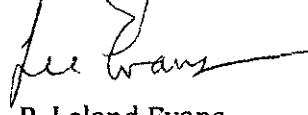
A copy of this letter has been submitted for filing with the PUCO. Please be advised that if a formal Resolution closing the crossing is not passed by the County Commissioners in sufficient time to allow for formal closure by the required closure date (February 16, 2016, pursuant to the PUCO Order), CSX will have no alternative but to request that the PUCO take all appropriate steps to enforce its November 18, 2015 Order, including the filing of a lawsuit in the appropriate court to have the PUCO's Order enforced and seeking a ruling that the Morrow County Commissioners be held in contempt and appropriate costs awarded.

We certainly hope that these additional actions will not be required. While CSX does appreciate the steps taken to date towards closure of the crossing, we hope and trust that the County Commissioners will promptly pass an appropriate Resolution closing the crossing.

¹ It is noted that the PUCO Opinion and Order incorrectly ordered Washington Township to issue an ordinance within 60 days of the Opinion and Order and that the crossing is to be physically closed to all vehicular and pedestrian traffic within 90 days. Because you have at all times indicated that Morrow County intended not to appeal the decision and that a Resolution closing the crossing to be approved by the Morrow County Commissioners was in the works, we did not feel it necessary to correct this misnomer in the PUCO's Opinion and Order.

Charles Howland
January 19, 2016
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Very truly yours,

A handwritten signature in dark ink, appearing to read "R. Leland Evans", with a long horizontal flourish extending to the right.

R. Leland Evans

RLE/ph

CC: ~~Morrow County Commissioners~~
PUCO Docketing Division
Ohio Rail Development Commission

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