

PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE REQUEST FOR  
EXEMPTION OF A RAIL CROSSING IN  
FORT RECOVERY, OHIO, AT BROADWAY  
STREET AND SR 49

CASE #22-324-RR-RCP

- - -

The following PUBLIC HEARING was held  
before Administrative Law Judge Jesse Davis.

- - -

Date and Time: Wednesday, September 28, 2022

1:00 p.m.

Place: St. Henry Consolidated Local  
Schools  
391 East Columbus Street  
Media Room  
St. Henry, Ohio 45883

Reporter: Susan E. Ingraham, RPR,

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September 28, 2022

1:00 p.m.

JUDGE DAVIS: We're on the record.

Good afternoon, everyone. The Public Utilities Commission of Ohio is set for public hearing at this time and place, case number 22-324-RR-RCP, which is captioned In the Matter of the Exception Request by the Village of Fort Recovery, for the RJ Corman railroad crossing at Broadway Street and State Route 49, DOT number 47-70X in Mercer County, Ohio.

My name is Jesse Davis. I'm the attorney examiner assigned to this case by the Commission.

The purpose of our hearing today is to provide public comments regarding the request made by the Village of Fort Recovery to classify the Broadway Street/State Route 49 crossing as exempt.

In the petition, the Village Administrator of Fort Recovery, explained that the crossing has not been utilized by rail traffic for many years and its exemption would increase safety for school buses and hazmat vehicles by eliminating the need for them to stop.

1                   So, for those in attendance,  
2 testimony will be considered as part of the  
3 official record in the case and it will be  
4 reviewed by the Commission before making a final  
5 decision.

6                   We're going to start by calling each  
7 witness, swearing them in and the court reporter  
8 will record your statement, so please speak  
9 plainly and clearly, so she can get everything.  
10 What I want you to do is state, spell your name,  
11 state your address and after that, why you think  
12 the request should be granted or not, so, Mr.  
13 Diller, we'll start with you.

14                                 - - -

15                   RANDY DILLER,  
16 Being first duly sworn/affirmed, testified as  
17 follows:

18                                 - - -

19                   JUDGE DAVIS: Please state and spell  
20 your name for the record.

21                   MR. DILLER: Randy Diller, R-A-N-D-Y,  
22 D-I-L-L-E-R. I'm the Village Administrator for  
23 Fort Recovery, 201 South Main Street, Fort  
24 Recovery, Ohio, 45856.

25                   JUDGE DAVIS: Thank you.

1                   MR. DILLER: As stated in the  
2 original petition letter, our number one reason  
3 for requesting the upgrade crossing exception is  
4 safety.

5                   As a reviewer/inspector has stated in  
6 his report, this crossing is along an embargoed  
7 area of the rail, which means it's not being used  
8 and can't be used for safety purposes, and they  
9 have no future plans at this point to make any  
10 improvements to said rail, which, in itself, lends  
11 it to being exempt.

12                  The location of the crossing is such  
13 that it is on a 55-mile-an-hour speed limit area,  
14 which is coming into town. Although it is located  
15 in town, the speed limit does not drop until after  
16 you cross the rail crossing. And there's also the  
17 issue of having a curve and an elevation change  
18 when approaching from the north.

19                  It is also very near the intersection  
20 of Railroad Street, which handles a large daily  
21 traffic count, specifically trucks, because it is  
22 an industrial area with a lot of employees and  
23 it's also the daily path for a lot of local tanker  
24 companies, both fuel, propane, and even some  
25 chemicals for industry.

1                   And lastly, and not least, is a lot  
2 of school buses cross that. The school bus  
3 fueling station is located along Railroad Street,  
4 meaning every bus has to go out there and  
5 typically has to come back into town by turning  
6 off of Railroad Street onto 49 heading south,  
7 which then they have to make an immediate stop for  
8 the crossing.

9                   By immediate, I mean, I'm not sure  
10 they can get even across the yellow line  
11 completely before they have to stop for that  
12 crossing grade. So it can be very problematic for  
13 a lot of reasons, but certainly due to the fact  
14 that it's a 55-mile-an-hour speed limit, vehicles  
15 are coming and they're trying to get out, then  
16 they have to stop, so it becomes an issue.

17                  We can say that we have had no  
18 serious accidents at this crossing for at least  
19 the past 20 years. I know there's been a death  
20 there and accidents there when trains were using  
21 it, but since it hasn't been used, there have been  
22 none.

23                  But we have had a lot of reported  
24 near-miss issues there mostly from traffic coming  
25 into town from the north, not seeing the traffic

1 stopped at the railroad because of either a bus or  
2 a tanker and the vehicles backed up behind them,  
3 and they've had to leave the roadway to miss the  
4 vehicles in front of them. We've had those  
5 reported. Who, again, I don't know. But we've  
6 not had anything serious happen there in many  
7 years, but we'd like to avoid that.

8 Obviously, by exempting that crossing  
9 for the buses and tanker trucks, we eliminate the  
10 need for them to stop and back up traffic and  
11 being able to not create that safety issue.

12 It also should be noted that the  
13 crossing signal on that rail crossing has been  
14 missing on the southbound lane for a number of  
15 years. There's not even a railroad crossing  
16 signal and it's been down for two to three years  
17 anyway, if not more, which obviously means they  
18 have no intentions of using it for trains.

19 In my capacity as the Village  
20 Administrator, I've heard from various local fuel  
21 companies and other industry with trucks that use  
22 this location that don't have to stop and still  
23 say what a problematic area this is for all  
24 traffic because of the buses and because of the  
25 tanker trucks that have to stop and people trying

1 to get on and off of Railroad Street and people  
2 coming into town at a higher speed, so it's just  
3 been an issue that has been a problem.

4 I've received substantial feedback  
5 over the years and more recently from the bus  
6 drivers who have to do that because they,  
7 obviously, look in their rearview mirror and see  
8 what's coming up behind them and it can be scary.

9 So at this point, I guess, from the  
10 Village of Fort Recovery's perspective and for  
11 public safety, I do not see any reason that  
12 approval of this exemption request would create  
13 any issues for the railroad, obviously, for the  
14 Village, or the traffic using this area -- only  
15 make it safer for everyone.

16 So thank you to the PUCO for  
17 consideration in this matter.

18 JUDGE DAVIS: Thank you very much for  
19 your testimony.

20 - - -

21 LARRY BROWN,  
22 Being first duly sworn/affirmed, testified as  
23 follows:

24 - - -

25 JUDGE DAVIS: Please state and spell



1 your name for the record.

2 MR. BROWN: Larry Brown, L-A-R-R-Y,  
3 B-R-O-W-N, and work address is 400 West Butler  
4 Street, Fort Recovery, Ohio.

5 And the things that I would like to  
6 add in support of the Village's application is to  
7 confirm that, yes, we do have significant bus  
8 traffic that does utilize that road for refueling.  
9 In addition, we have two standard routes that go  
10 by there each day, two buses on the in-route and  
11 out-route have to stop there.

12 One things that's kind of forgotten  
13 about is we have a significant number of van trips  
14 that they qualify under the same stoppage rules  
15 and as far as going to Berne for swimming  
16 practices, and some of our athletic events that  
17 also have to -- if they're riding in a bus, they  
18 certainly have to follow all the things that a  
19 regular route would.

20 So we have additional trips to  
21 Parkway, Berne, Indiana, some parts of -- other  
22 parts in Indiana that are in the northern section  
23 that we have athletic events for, in addition to  
24 all the previously stated reasons.

25 So my concern that I would echo Mr.

1 Diller is the southbound traffic that's heading in  
2 and, of course, with inclement weather --  
3 especially with inclement weather, I delay when we  
4 need to, but I can't delay in all situations.

5 That's all that I'd like to say and  
6 ask for consideration and approval of this  
7 vacation and exception.

8 JUDGE DAVIS: Thank you very much for  
9 your testimony.

10 - - -

11 CHIEF JARED LAUX,  
12 Being first duly sworn/affirmed, testified as  
13 follows:

14 - - -

15 JUDGE DAVIS: Please state and spell  
16 your name for the record.

17 CHIEF LAUX: Jared L. Laux,  
18 J-A-R-E-D, middle initial L, last name Laux,  
19 L-A-U-X, Police Chief of the Village of Fort  
20 Recovery, 201 South Main Street is the police  
21 department address.

22 JUDGE DAVIS: Go ahead.

23 CHIEF LAUX: So as far as the Police  
24 Department, basically is we can confirm the same  
25 complaints, worries with having that continue to

1 have to be a stop for all said vehicles mentioned  
2 before.

3 As law enforcement, our whole goal is  
4 to preserve life and this could be a cause for  
5 life to be lost, you know, at one time or another  
6 here if it continues to be a required stop for  
7 those vehicles.

8 Just appreciate you guys taking the  
9 time to do this.

10 JUDGE DAVIS: Thank you very much.

11 With that, that concludes the  
12 testimony of the witnesses that we have here  
13 today. I thank you all for attending and for  
14 actually providing your testimony.

15 The Commission would like to thank  
16 St. Henry Consolidated Local Schools for the use  
17 of their facilities.

18 With that, we are adjourned.

19 (Thereupon, the hearing adjourned at  
20 1:14 p.m.)

21 - - -  
22  
23  
24  
25

**C E R T I F I C A T E**

I, Susan E. Ingraham, Registered Professional Reporter and Notary Public in and for the State of Ohio, duly appointed therein, do hereby certify that the foregoing is a true and complete transcript as transcribed by me of the proceedings conducted in that hearing on September 28, 2022, and I do further certify that I was personally present during all of the proceedings so transcribed.

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Susan E. Ingraham  
Registered Professional Reporter

My Commission Expires: September 1, 2025.

**This foregoing document was electronically filed with the Public Utilities  
Commission of Ohio Docketing Information System on**

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**in**

**Case No(s). 22-0324-RR-RCP**

Summary: Transcript for public hearing held before Administrative Law Judge  
Jesse Davis September 28, 2022 at 1:00 p.m. at St. Henry Consolidated Local  
Schools electronically filed by Ms. Donielle M. Hunter on behalf of Susan E.  
Ingraham, Midwest Reporting Service