



The Association of State Rail Safety Managers

June 11, 2008

**Statement of George Elsmore, President
Before the Rail Safety Advisory Committee**

Salutations, Introduction

- The ASRSM is attempting to find solutions for the serious public safety problem created when standing trains block highway grade crossings resulting in the delay of multiple modes of traffic, including emergency responders and also pedestrians, which leads to many complaints about railroads in general and their conduct
- We are active proponents of rail commerce, and applaud the substantial contribution railroads add to the U.S. economy
- We are even more proud of the overall safety gains achieved by the industry
- Nonetheless, nobody wants to be on the wrong side of a blocked crossing for an extended period of time or especially when an emergency situation arises. Unfortunately, these events do occur with disturbing frequency throughout the country. State managers field the calls from the general public, (some of whom have had particular crossings blocked for hours at a time with no discernible reason, i.e., the train was not experiencing mechanical problems, it was not derailed, there is no other train in its path, etc.) elected officials, transportation providers, emergency responders, and occasionally from the family members of loved ones impacted

What should we do to address this problem? It is clear that local cities do not have the power to try to regulate blocked crossings, but until recently it was presumed that state governments did. A number of states have statutes preventing standing trains from blocking crossings excessively, typically a time period of 10 minutes, however, like dominoes, all, or almost all, of these state laws have fallen to legal challenges (the most recent in Illinois in January, 2008) in which it is found that states simply do not have the authority to pass laws like this since the railroads are in interstate commerce and presumably only the federal government can regulate this issue

- The problem is of course becoming also more severe with increased rail and vehicle traffic and also is a safety issue because a blocked crossing:
 - (1) may unintentionally redirect vehicles to other crossings which may have lesser protective devices at them;

- (2) encourage people to attempt to “beat” the train at crossings because they fear once the train is present it will be blocked for an extremely long time; and
 - (3) makes communities reluctant to close existing crossings because they fear any remaining ones will be blocked so it is critical to keep all of their crossings open.
- ASRSM has asked FRA to promulgate a national rulemaking to address the problem of blocked crossings, but it is not clear when or even if FRA will initiate a rulemaking, or whether or not there may be any other interim solutions
- ASRSM is interested in enlisting the collective resources of the RSAC membership to reach a consensus on best industry practices to minimize the impacts to the public from blocked crossings
- ASRSM encourages FRA to establish a working group within RSAC to help find solutions to this serious public safety problem and to promulgate effective federal regulation of this issue because it appears, based on court decisions, that only the federal government now has this power

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