

Douglas County District Attorney

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May 1, 2008

Raymond P. Taffora
Deputy Attorney General
Wisconsin Department of Justice
P.O. Box 7857
Madison, WI 53707-7857

RE: Canadian National Railroad crossing blockage – Douglas County, Wisconsin

Dear Mr. Taffora:

After a few months of Douglas County citizen complaints and our office researching the issue, I am looking to the Office of the Attorney General for an opinion, advice and/or consultation. The issue is: Is the State of Wisconsin "preempted" from enforcing § 192.292, Stats., by the Federal Railroad Safety Authorization Act of 1994?

The complaints in Douglas County regard Canadian National Railroad trains blocking road crossings for a reported one to four hours, a situation that has been progressing in frequency over time. Citizen complaints to the railroad administration and employees have been basically ignored, and contacts with local law enforcement and elected leaders have not resolved the serious safety problem.

Enclosed you will find a local newspaper article that details the history, along with a newspaper editorial. Also enclosed is an internal office memo from Assistant District Attorney Rebecca Lovejoy who initially handled and researched the issues. Several other Wisconsin D.A. offices replied to Assistant D.A. Lovejoy's email inquiry that their State prosecutions were dismissed by circuit courts because the railroad cited the "federal law preemption" defense.

Our County Board Chairman, Douglas Finn, State Assembly Representative Frank Boyle, State Senator Bob Jauch, U.S. Congressman Obey's local staff Matthew Rudig, and I have made various contacts with the complainant citizens in person or by phone/email. We have also made contacts with Doug Woods, State of Wisconsin Railroad Commission, and Kevin Soucie, the Canadian National Community Relations representative out of Milwaukee. No long term resolution has been reached.

It appears that there is confusion about enforceability of a State law. There is a very negative impact on the access to private property and potential serious safety concerns to the local residents. We appreciate any assistance that your office can provide.

Sincerely,

A handwritten signature in dark ink, appearing to read "Daniel W. Blank".

Daniel W. Blank, District Attorney

dwb/jl
enclosures