

REMARKS OF VICKY MOORE
BEFORE THE UNITED STATES HOUSE OF REPRESENTATIVES,
TRANSPORTATION AND INFRASTRUCTURE COMMITTEE,
RAILROAD SUBCOMMITTEE
July 21, 2005

Thank you, Chairman LaTourette, Ranking Member Brown, and other distinguished sub-committee members. I appreciate the opportunity to testify on issues pertaining to grade-crossing safety. Along with my husband, Dennis, I am a trustee of The Angels On Track Foundation, an Ohio-based, non-profit entity devoted to grade-crossing safety. Our foundation was formed after our two sons were involved in a catastrophic grade-crossing accident in 1995. Our youngest son, Ryan, and two others were killed. The approach to the crossing was steep and overgrown vegetation restricted the view of approaching trains. The crossing was not protected with gates; it only had crossbuck signs. I come before you not as a grieving mother but as a representative of the thousands of families that have lost loved ones in grade-crossing accidents, and who collectively have no representation or national voice.

Over the past decade, The Foundation has funded gate installations in Ohio because gates have proven to be the safest type of protection device. Furthermore, we have conducted extensive research on safety matters, created an educational subsidiary called Crossing To Safety; have advanced our message that “bad crossings kill good drivers” and have learned about the process that administers grade-crossing safety. Today, I share some of our findings with you in the hope that change will be forthcoming.

1. We have learned that following grade-crossing accidents, it is automatically assumed that all motorists are at fault. Behind this unsupported assumption is the “failure to yield” misnomer. Since railroads have the right of way at crossings, it is accepted that all accidents are caused by motorists failing to yield. The important question should be “WHY do motorists fail to yield to approaching trains?” Maybe they couldn’t see and/or hear the train through no fault of their own. After all, courts have found that railroads and/or deficient crossings have contributed to accidents. Furthermore, many accidents occur in rural areas without eyewitnesses. Why should we rely solely on railroads to identify causes of accidents that they themselves are involved in? We believe that FRA, Operation Lifesaver, and the railroad industry should expunge their “victim-to-blame” mantra that is based on railroad accident reports citing “failure to yield”. This misleading message is not only unsupported, it immediately pronounces blame and gives self-anointed good drivers a false sense of security in approaching dangerous grade crossings.

(ATTACHMENT #1)

2. We have learned that many unprotected crossings contain motorist sight obstructions along tracks on railroad rights-of-way – and I’m not talking about private land -- that do not meet requirements of the FRA as stated in its Railroad-Highway Grade Crossing Handbook; national standards of AASHTO, or in Ohio, State law. A few States have laws in this area, but they are inconsistent. It is illogical that national sight-distance standards addressing public safety are not provided for in the Code of Federal Regulations or as an FRA rule, while vegetation affecting railroad safety is. We urge DOT to become pro-active in ensuring that this happens.

A recent NTSB safety study of passive grade crossings (SAFETY STUDY, Safety At Passive Grade Crossings PB98-917005, NTSB/SS-98/03) found 57% of the 62 cases studied had “limited sight distance”. The majority of grade crossing accidents happen at passive crossings – which handle less traffic than do gated crossings- and that a number of passive crossings have deficient crossing conditions such as limited sight distance.

Federal legislation exists relating to sight obstructions at railroad crossings but is extremely limited in that it only addresses vegetation on railroad property or the adjacent roadbed that: 1) affects track carrying structures; 2) obstructs visibility of railroad signs/signals; 3) interferes with railroad employees performing duties; 4) prevents proper functioning of signal and communication lines; and 5) prevents railroad employees from visually inspecting moving equipment. While federal law addresses vegetation on railroad property, it does not address vegetation and sight obstructions that limit the ability of motorists to see oncoming trains and does not include required sight-distance standards as recommended by the Association of American State Highway and Transportation Officials (AASHTO). In addition, sight obstructions other than vegetation, that limit motorists from seeing down the tracks are not addressed.

The Code of Federal Regulations states that railroads are to inspect their tracks “...twice weekly with at least one calendar day interval between inspections, if the track carries passenger trains or more than 10 million gross tons of traffic during the preceding calendar year.” While the Code does not mention vegetation, railroad train crews could also be looking for vegetation that obscures the view of the motoring public at all grade crossings and also endangers train crews as well. Afterall, railroad crews pass through and inspect crossings on a daily basis.

(ATTACHMENT #2)

3. We have learned that railroads are overly influential in matters of grade-crossing safety. They have authored affidavits for public officials in judicial proceedings; reportedly have close ties with the FRA; and have dominated Operation Lifesaver at the State level, and on its national Board of Directors. Partnerships are formed out of common interests and, for-profit companies such as railroads and public regulatory agencies have natural conflicts of interest. Ironically, in regard to Operation Lifesaver, our foundation was denied a seat on the Board of Directors because we were labeled “advocates,” while Operation Lifesaver’s Board is comprised of lobbyists, railroad personnel, and special interests. Yes, we are advocates, but for no other reason than that of public safety. We believe that the federal government should withhold its funding of Operation Lifesaver until it opens its Board to include organizations such as ours, and modifies its domination by the railroad industry.

(ATTACHMENT #3)

4. We have learned that there is economic waste of valuable taxpayer dollars in the system. Railroads are awarded sole-source contracts to install gates and their expenditures are rarely audited. Excessive costs for installation of gates prohibit states and local communities from funding protection at crossings, and thus lives are lost. Based on our review of railroad invoices, we suspect that the installation of crossing gates is a railroad profit center. We believe installations should be done on a cost – not profit – basis, and that audits should be a requirement to receive federal funds.

Crossing improvements installed in Ohio, provide examples of elevated costs. In 1997, the estimated cost for installation of gates and lights amounted to \$117,053. Less than 10 years later, estimates range anywhere from \$176,000 to over \$290,000 for the same technology, equipment, engineering, and labor costs. This increase is not only greater than the rate of inflation; it includes unexplained “additives”.

(ATTACHMENT # 4)

5. And finally, we learned that the FRA and others have mistakenly taken credit for the downward trend in accident rates over the past 30 years, when, in fact the major factors were: (1) 25,000 new crossing-gate installations; (2) the closure of over 100,000 crossings, and (3) downsizing and restructuring of the railroad industry. Unfortunately, the accident rate increased in 2004 and dangerous unprotected crossings are plentiful throughout the country. FRA, railroads and Operation Lifesaver should be held to a higher level of accountability than the cover of a declining accident rate.

(ATTACHMENT #5)

In conclusion, we believe people's lives will continue to be needlessly lost unless an effective, truthful and transparent system is implemented addressing grade crossing safety. We encourage our nation's railroads; DOT, FRA, OLI and others to become strong advocates for public safety by changing some of their current practices.

Again, thank you for the opportunity to appear before you today. I am here with my husband, Dennis, and Dr. Harvey Levine, our Director of Crossing To Safety. I will be pleased to answer questions.

LIST OF ATTACHMENTS

Attachment # 1 – Discusses the “victim-to-blame” assumption in more detail.

Attachment #2 – Discusses the issue of motorist sight obstructions in more detail.

Attachment #3 – Discusses the issue of railroad influence in more detail.

Attachment #4 – Discusses the issue of railroad gate installations in more detail.

Attachment #5 – Discusses the issue of “declining accident rate” in more detail.