

February 11, 2005

DELIVERED VIA PERSONAL COURIER

Utah Public Service Commission  
Attn: Julie Orchard, Commission Administrator  
Heber M. Wells Building  
160 East 300 South, Fourth Floor  
Salt Lake City, Utah 84111

RE: PSC Docket Number 05-999-02

Ladies and Gentlemen:

This letter pertains to the January 11, 2005 ruling and decision (the "Order") of the Utah Department of Transportation ("UDOT") relating to the closure of DOT 807-053G (Case No. 2004-UTA-CX1). The Order concerns the at-grade crossing of the Provo Subdivision Lead right of way (the "Right of Way") and 13200 South Street (a public street operated and maintained by Draper City).

Utah Transit Authority ("UTA") owns the Right of Way, including the property upon which the at-grade crossing has been constructed. UTA purchased the Right of Way in 1993 to preserve the corridor for use in UTA's public transit system, including a future extension of UTA's TRAX light rail system into Draper City (part of the Wasatch Front Regional Council's long range transportation plan). The Right of Way is also subject to a freight easement that grants a shortline freight railroad operator the right to use the Right of Way to service freight shipping customers.

For reasons set forth below, UTA strongly supports the Order. Any successful appeal to the Order will have significant, adverse impacts to the development and operation of passenger and freight rail service in the Right of Way. Any successful appeal will also propagate significant current and future public safety risks that result from the character and geometry of the crossing. Finally, any successful appeal to the Order will frustrate UTA's and UDOT's joint objective to minimize the number of at-grade railroad crossings in the State of Utah.

UTA has a strong interest in the disposition of this matter and is an interested party with respect to any appeals of the Order. UTA also intends to intervene in any appeal proceeding to the extent necessary to protect its interests. Pursuant to my discussions with Julie Orchard, I hereby request that UTA be provided copies of all pleadings, notices and communications germane to any appeal of the Order.

Now let me take a moment to briefly explain the history and geometry of the existing crossing. This information should provide a context for UTA's position with respect to the Order.

The portion of 13200 South Street that crosses the Right of Way is an unimproved surface consisting of gravel and timber panels. The crossing was historically used to provide access to a handful of residences on the east side of the Right of Way. Nearly all of these residences are now gone. The crossing also provided access to recreational trails on the east side of the Right of Way. Access to such trails ceased prior to UTA's purchase of the Right of Way. Because of the limited nature of the crossing's use, Draper City designed and maintained the relevant portions of the roadway only to the level of a private crossing. The crossing did not meet UTA's requirements for a public at-grade crossing.

However, recent residential development of the area makes the continued use of the unimproved crossing impracticable. Several new subdivisions have been constructed on the east side of the Right of Way. This development has increased the scope of use for the crossing. The increased use is inconsistent with the unimproved character of the crossing and the nature the crossing's historic use. These changes were neither authorized nor intended by UTA. To the contrary, UTA, Draper City, UDOT and the residential developer all agreed that the crossing would close upon the completion of an access road connecting to 13800 South. This access road was completed several years ago.

The increased scope of use has also exacerbated a geometric deficiency in the crossing design. The Right of Way in the area of the crossing is elevated above the natural grade of the surrounding property. Accordingly, 13200 South Street approaches the Right of Way at steep grades from both the east and the west. This characteristic limits the ability of a motorist to see oncoming traffic from the other side of the Right of Way. It also limits the ability of the driver to see traffic on the Right of Way itself. Draper City operates a public bicycle, pedestrian and equestrian trail along the Right of Way. The steep approaches and limited sight lines impair the ability of a motorist to see trail users, posing a significant safety risk to trail users. UTA, Draper City and UDOT have implemented new signage and made other attempts to mitigate the risk to trail users. However, the existing conditions remain unsatisfactory, and little more can be done without a correction to the underlying geometry.

Because of the restricted sightline conditions, UDOT has ordered Draper City to leave the crossing unpaved. This condition has made it very difficult for Draper City to adequately maintain the roadway in a smooth condition. The gravel surface consistently develops ruts and potholes. The result has been damage and unusual wear to UTA's rail improvements. In addition, attempts to maintain the unimproved crossing have adversely impacted the storm water drainage into the Right of Way, and caused the Right of Way and adjacent property to flood during periods of rain or thaw. UTA periodically receives property damage claims from motorists complaining that crossing conditions have caused damage to their vehicles. UTA has also received numerous complaints from adjacent property owners regarding the dust and noise generated by the crossing. In sum, the attempts to maintain the crossing for more intensive use have damaged UTA's Right of Way and increased the costs for UTA to operate and maintain its Right of Way.

The substandard condition of the crossing cannot be remedied without the substantial reconstruction of 13200 South Street. This would involve a raise in the profile of both the east and west approaches to the Right of Way. It would also include the addition of drainage improvements, grade crossing improvements and surface improvements. UTA's engineers have

estimated this cost to be approximately \$1 million. Neither UTA, Draper City nor UDOT has budgeted for this reconstruction project. Moreover, such an investment is unnecessary and unwarranted given the proximity of new Right of Way crossings to both the north and south.

The decision to close the crossing was made after ten years of discussion among UTA, Draper City and UDOT. The closure was an agenda item at several Draper City Council meetings over the past two years. The closure decision was made after an independent engineering analysis concluded that other roadways provided sufficient capacity to handle future travel demands for access to and from the east side of the Right of Way. The closure was also subject to a separate analysis of the impacts to emergency vehicle access. This latter study concluded that closure would have no material effect to the response times of emergency vehicles accessing the east side of the Right of Way. Ultimately, Draper City issued a resolution recommending that the crossing be closed. This action was the subject to a public hearing conducted by UDOT pursuant to R930-5-14. Taken together, all these efforts have generated substantial public comment both for and against the determination reflected in the Order. After reviewing all of the public comments, UTA, Draper City and UDOT have all made the decision to support the position taken in the Order. UTA asks the Public Service Commission to carefully consider the technical determinations that have been made by the three public entities having a direct interest in the crossing.

This letter is intended only to generally summarize UTA's position regarding the crossing. UTA is prepared to provide more detailed arguments as this issue moves forward. If there is any information that would be helpful to you in understanding UTA's position, please do not hesitate to contact Jeff Harris (801-287-2337) or Bart Simmons (801-287-4572). Otherwise, we will wait to receive copies of pleadings, notices and communications relative to appeals.

Thank you for your time and consideration.

Sincerely,

Bart W. Simmons  
Associate Corporate Counsel

cc: Jeff Harris, UTA Deputy Chief: Asset Management and Business Development  
Kathryn Pett, UTA General Counsel  
Michael Allegra, UTA Chief Capital Development Officer