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Attorneys for Utah Department of Transportation

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In Re: :
Petition of Anderson Geneva, LLC, Ice Castle : DOCKET NO. 11-888-01
Retirement Fund, LLC, and Anderson Geneva :
Development, Inc. : **UTAH DEPARTMENT OF**
: **TRANSPORTATION’S ANSWER TO**
: **PETITION FOR RELIEF AGAINST**
: **UNLAWFUL ACTION BY UTAH**
: **DEPARTMENT OF**
: **TRANSPORTATION**

Utah Department of Transportation (“UDOT”) answers the Petition for Relief as follows:

1. Is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 1.
2. Admits.

3. Admits, except to the extent the Petitioners have failed to exhaust their administrative remedies and lack standing.
4. The Order of the Commission dated February 7, 2011 speaks for itself.
5. Admits that it conducted a Surveillance Review on February 22, 2011. The report based upon the Surveillance Review speaks for itself. UDOT denies the remaining allegations contained in paragraph 5.
6. Denies the allegations in paragraph 6.
7. Denies the allegations in paragraph 7.
8. Admits that it ordered the Crossing to be temporarily closed because the Crossing is unsafe. UDOT denies the remaining allegations in paragraph 8.
9. Denies the allegations in paragraph 9.
10. The Surveillance Review and Report dated February 28, 2011 speaks for itself. UDOT denies the remaining allegations in paragraph 10.
11. The Surveillance Review and Report dated February 28, 2011 speaks for itself. UDOT denies the remaining allegations in paragraph 11.
12. The Surveillance Review and Report dated February 28, 2011 speaks for itself. UDOT denies the remaining allegations in paragraph 12.
13. The Surveillance Review and Report dated February 28, 2011 speaks for itself. UDOT admits that it did not allocate the cost for the road alignment because UDOT is not given such authority pursuant to statute.

14. The Surveillance Review and Report dated February 28, 2011 speaks for itself. UDOT denies the remaining allegations in paragraph 14.

15. The Surveillance Review and Report dated February 28, 2011 speaks for itself. UDOT asserts that it complied with applicable statutory requirements and denies the remaining allegations in paragraph 15.

16. The Surveillance Review and Report dated February 28, 2011 speaks for itself. UDOT denies the remaining allegations in paragraph 16.

17. Denies the allegations in paragraph 17.

18. Denies the allegations in paragraph 18.

19. Because the allegations contained in paragraph 19 constitute legal conclusions or argument and not fact, an admission or denial is not required. UDOT denies the remaining allegations in paragraph 19.

20. Asserts that it complied with the Order of the Public Service Commission and followed the applicable rule concerning the closure of the Crossing. UDOT denies the remaining allegations contained in paragraph 20.

FIRST AFFIRMATIVE DEFENSE

Petitioners fail to state a cause of action upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Petitioners' claims are barred by the doctrines of collateral estoppel, issue preclusion and waiver.

THIRD AFFIRMATIVE DEFENSE

If not raised before the administrative hearing officer or completed the administrative process, the claims are untimely, are barred by the applicable statutes of limitation, and deprive the Public Service Commission of subject matter jurisdiction due to Petitioners' failure to exhaust administrative remedies with UDOT or allow the administrative process to be completed.

FOURTH AFFIRMATIVE DEFENSE

Petitioners lack standing to bring this Petition for Relief.

WHEREFORE, UDOT requests the following relief:

1. For the Commission to deny the Petition for Relief.
2. For such relief as may be deemed appropriate by the Commission.

Dated this 27th day of April, 2010

/s/ Renee Spooner
Renee Spooner
Assistant Attorney General

MAILING CERTIFICATE

I hereby certify that I mailed a true and correct copy of the foregoing **UTAH DEPARTMENT OF TRANSPORTATION'S ANSWER TO PETITION FOR RELIEF AGAINST UNLAWFUL ACTION BY UTAH DEPARTMENT OF TRANSPORTATION**, postage prepaid, this 27th day of April, 2011, to the following:

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/s/ Renee Spooner