

February 10, 2006

Utah Public Service Commission  
C/O Julie Orchard, Commission Administrator  
160 East 300 South  
Heber M. Wells Bldg., 4<sup>th</sup> Floor  
Salt Lake City, UT 84111

**Re: Docket 06-999-01, Appeal to Railroad Crossing Closure Denial  
UDOT Case No. 2005-CL2  
US-DOT Crossing #805-990T**

Dear Ms. Orchard,

As you are aware, on December 8, 2005, UDOT denied a petition to close a railroad crossing located at 300 North in Brigham City, UT. The Department has advocated closure of this crossing in the past, and continues to support improving railroad safety by way of closing existing public crossings.

Site conditions at this crossing warrant closure of the city street. During the review, UDOT determined that an existing business owner is currently using this crossing to move dairy cattle from the pasture to the milking facilities located on the opposite side of the tracks. UDOT determined that while closure of this crossing would not create an undue detour for the general public, the detour required for movement of the cattle could create additional hazards to both the livestock and general public.

The business owner also provided statements to UDOT claiming that the detour would at a minimum have a negative impact on his production, or at worst render the business unviable. This impact could be considered a constitutional property taking, requiring payment of just compensation by UDOT, as well as possible relocation benefits. These economic impacts were not adequately addressed in the plan for closure, and subsequently the petition was denied. UDOT continues to support the closure of this crossing, and will move to do so once the concerns of the business owner have been addressed or otherwise mitigated.

Sincerely,

Michael S. Seely, P.E.  
Chief Railroad Engineer

Cc: Jim Beadles, Assistant Attorney General