



State of Utah

DEPARTMENT OF TRANSPORTATION

JOHN R. NJORD, P.E.  
*Executive Director*

CARLOS M. BRACERAS, P.E.  
*Deputy Director*

JON M. HUNTSMAN, JR.  
*Governor*

GARY R. HERBERT  
*Lieutenant Governor*

July 13, 2009

Mr. Dennis Astill  
Project Manager & General Counsel  
Anderson Geneva Development  
99 North Geneva Road  
Vineyard, UT 84057

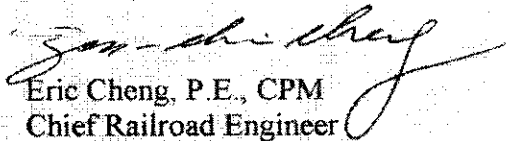
RE: 400 North Railroad Crossing Vineyard, Utah – DOT No. 254903N

Dear Mr. Astill:

The Utah Department of Transportation (UDOT) would like to thank you for providing the documents and information to UDOT regarding the status of the 400 North/Vineyard Road highway-rail crossing (the "Crossing"). After reviewing the documents and pertinent information, UDOT classifies this Crossing as a public crossing. However, the current conditions at the Crossing are unsafe for the public. Pursuant to Utah Code Ann. Section 54-4-15, UDOT is ordering the temporary closure of the Crossing. UDOT will contact the parties within the next two weeks to schedule a Diagnostic/Surveillance Team review for a recommendation as to the type of treatments to be used to close the Crossing. The Crossing shall remain closed until the Town of Vineyard improves the approach roadways to the standard of the roadway as classified in its current Master Street Plan and the Crossing has been improved to meet the required safety standards as determined by UDOT with recommendations from the Diagnostic/Surveillance Team review.

Thank you again for your concerns and efforts in this matter. If you have any questions or concerns, please feel free to give me a call.

Sincerely,

  
Eric Cheng, P.E., CPM  
Chief Railroad Engineer

Cc: David Church, Attorney for Vineyard Town  
Jim Marshall, UP Railroad  
Steve Meyer, UTA  
Tracy Conti

**Robert Hull**  
**Renee Spooner**  
**Jeff Harris, HNTB**  
**Travis Colledge, HNTB**

# Anderson Geneva Development Inc.

99 N. Geneva Road  
Vineyard, UT 84057  
Telephone (801) 225-2031  
(801)990-4930  
Facsimile: (801) 990-4931

May 18, 2009

Renee Spooner, Esq.  
UTAH DEPARTMENT OF TRANSPORTATION  
4501 S 2700 West  
Box 148455  
Salt Lake City, Utah 84114

RE: 400 North Railroad Crossing, Vineyard, Utah

Dear Renee:

This letter is written as a supplement to the information previously provided to you with regard to the 400N Crossing at Vineyard Road, in Vineyard Town (the "Crossing"). As you know, the primary issue in relation to the Crossing is whether or not you can have a public crossing where there is private ownership of property on one side of the crossing and public ownership on the other side of the crossing.

As we have demonstrated, the historical maps and the abandonment that occurred at the time of the creation of the Geneva defense plan in 1942, made it clear that the west side of the Crossing remained as a public highway and the east side of the Crossing became private ownership. Notwithstanding the private ownership, one could easily assert and claim that the east side of the Crossing also became a public highway by virtue of its use after the initial abandonment by Utah County. Regardless, it is local law which governs and it is apparent, and has been obvious, that the Crossing has been treated as a public crossing since 1942.

Union Pacific has obviously taken an opposing view to this. It has attempted to use information from the National Register in the description of a public crossing, but it has only provided part of that information. We have provided a complete picture of that for you.

We have recently come across documents that are determinative of this issue. Enclosed with this letter please find two documents which provide determinative information. First is a document bearing a cover letter dated August 7, 1943, from Theodore E. Thain, acting Secretary of the Public Service Commission, to Farnsworth & Van Cott, attorneys for D.& R.G.W.R.R. Co. This letter conveys two certified copies of a Commission Report and Tentative Order in Case No. 2710. The Tentative Order recites that an application by the Denver and Rio Grand Western Railroad Company ("D.& R.G.W. Railroad") was filed with the Commission on July 16, 1943, and recites several findings in relation to the application. The important finding in relation to the Crossing is found under the fifth paragraph of the Findings, which states that the main line of the railroad near Geneva, Utah County, Utah, crosses certain county roads and state highways. The

applicant was proposing to construct a second main track near the Geneva property and parallel to the main track. The importance of the application was that the second main track, when constructed, would make an at-grade crossing across each of the stated highways. One of those crossings is described as follows:

. . . a[t] county highway crossing to Geneva plant at m.p. 708 plus 995 feet, on section line between Sec. 8 and 17, Twp. 6 South, R. 2 E., Utah County, at a point approximately 2700 feet west from the northeast corner of said Sec. 17.”

This is the crossing at 400N and Vineyard Road. The Tentative Order also referenced a blueprint that was attached to the application. The importance of this Tentative Order cannot be overemphasized. D.& R.G.W. Railroad clearly made representations to the Public Service Commission that it considered the Crossing as a public highway and a public crossing.

This is evidenced further by a State of Utah Road Commission memo dated July 20, 1943 (also attached). There, reference was made again to the railroad track being proposed which would “cross eight highways six of which are designated as County roads . . .”.

A third document attached to the Tentative Order is comprised of a report from Utah County (Robert L. Wilson, Utah County Surveyor). He refers specifically to the project and makes a specific recommendation with regard to the Crossing. Therein he states, “Highway crossing 708 +995’, Entrance into Steel Plant. Visibility clear. Highway grade should be raised on west side.”

Finally, the Tentative Order refers to a blueprint, a copy of which is attached. I have marked up the copy enclosed so that you can easily see the location that is specified. Again, this is a blueprint map of the trackage prepared by D.& R.G.W. Railroad.

Please understand that this application was submitted over a year after the abandonment by Utah County. As indicated, D.& R.G.W. Railroad, UDOT’s predecessor, the State Road Commission, Utah County, and the Utah Public Service Commission all treat the Crossing into the Geneva property as a public crossing.

The second set of documents enclosed involve an Amended Application, Case No. 2714, before the Public Service Commission, filed by Union Pacific, the successor in interest to D.& R.G.W. Railroad. In this document, there is a service spur being applied for which would cross State Road U-114. The importance of this document is found in the State Highway map attached as a part of the Amended Application bearing the signature block of W.W. Anderson, Chief Design Engineer for the State Road Commission of Utah. This was dated April 1943. The second page of the map shows a State Road map with various highway crossings clearly marked. It is therein shown that the Crossing is reflected as a highway crossing and bears a highway crossing signal. Also shown on that map are hatch marks which appear to mark the private property lines adjacent to the public highway and adjacent to the railroad right of way, internal to the Geneva property.

Ms. Renee Spooner  
May 18, 2009  
Page 3

I hope that this will help finalize a prompt decision by UDOT so that we can move forward with our development activities and Utah Transit Authority can proceed with its transit development plans.

Sincerely,

A handwritten signature in black ink, appearing to read "Dennis M. Astill". The signature is fluid and cursive, with a large initial "D" and "A".

Dennis M. Astill,  
Project Manager & General Counsel

DMA\ss  
enclosures  
cc: David L. Church  
Eric Y. Cheng  
Reha K. Deal

2710

August 7, 1943

Farnsworth & Van Cott  
Attorneys-at-Law  
The D. & R. G. W. R. Co.  
Walker Bank Bldg.  
Salt Lake City, 1,  
Utah

ATTENTION: E. C. Jensen

Gentlemen:

Enclosed herewith are two (2) certified copies  
of the Commission's Report and Tentative Order in Case No.  
2710.

In conformity with the requirements of the Order,  
please have the substance of the order published in a news-  
paper of general circulation in Utah County, Utah, for two  
issues, said publication to be completed on or before August  
22, 1943.

Proof of publication should be filed with the  
Commission on or before August 27, 1943.

Very truly yours,

DEPARTMENT OF BUSINESS REGULATION  
Public Service Commission

Theodore E. Thain  
Acting Secretary

TET:jp  
Encls.

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Application of )  
THE DENVER and RIO GRANDE WESTERN )  
RAILROAD COMPANY, a Corporation, and )  
Wilson McCarthy and Henry Swan, Trustees of the property thereof, in Re- )  
organization Proceedings for permis- )  
sion to construct, maintain and op- )  
erate a standard gauge railroad track )  
over and upon a state highway, No. )  
U-114, and seven county highways in )  
Utah County, Utah.)

Case No. 2710

R E P O R T  
and

TENTATIVE ORDER

DOCKETED

By the Commission:

The above-entitled application of The Denver and Rio Grande Western Railroad Company, a corporation, and Wilson McCarthy and Henry Swan, Trustees, was filed with the Commission July 16, 1943.

The Commission ordered the matter handled under summary procedure according to its rules of practice and procedure which provide for an investigation and the issuance of a tentative order, subject to the right of any interested parties to protest within the time specified in the order.

From the investigation made by the Commission, and from the record and file in this matter which are hereby made a part hereof by reference, the Commission makes the following findings:

That The Denver and Rio Grande Western Railroad Company is a corporation, organized and existing under and by virtue of the laws of the State of Delaware, and is authorized to do business in the State of Utah as a common motor carrier of property and persons; that Wilson McCarthy and Henry Swan are Trustees of the property of said railroad company in reorganization proceedings under Section 77-B of the Bankruptcy Act as amended; and that the said The Denver and Rio Grande Western Railroad Company, a corporation, is subject to the jurisdiction of the Public Service Commission of the State of Utah.

That the applicants own and operate a line of standard gage railroad, among other places, in Utah, between Provo, Utah County, Utah, and Salt Lake City, Salt Lake County, Utah; that the main line of said railroad near Geneva, Utah County, Utah, now crosses certain county roads and state highway U-114 at grade; that the applicants propose to construct a second main track near said

Geneva, Utah, parallel to the said main line track, which said second main track will, when constructed, cross at grade said highways at the following described locations:

A county highway, at m.p. 703 plus 1433 feet of the main line of the D.& R.G.W.R.R., in the NW-1/4 of Sec. 2 Twp. 7 south, R. 2 E., Utah County, approximately 350 feet south and 700 feet east from the NW corner of Sec. 2, and 418 ft. southeasterly along the center line of present main track from the north line of said Sec. 2.

A county highway, at m.p. 704 plus 1203 feet of the main line of the D.& R.G.W.R.R., in the NE-1/4 of Sec. 34, Twp. 6 South, R. 2 E., Utah County, approximately 1350 feet south and 475 feet east from the northwest corner of the NE-1/4 of Sec. 34, and 2100 feet southeasterly along the center line of present main track from the north line of said Sec. 34.

A county highway, at m.p. 704 plus 3230 feet, on Section line between Sec. 27 and 34, Twp. 6 South, R. 2 E., Utah County at a point 1830 feet east from the SW corner of said Sec. 27.

A county highway, at m.p. 705 plus 4597 feet, on Section line between Sec. 21 and 28, Twp. 6 South, R. 2 E., Utah County, at a point approximately 2050 feet west from the northeast corner of said Sec. 28.

A county highway, at m.p. 706 plus 2365 feet, on line between the NW-1/4 and SW-1/4 of Sec. 21, Twp. 6 south, R. 2 E., Utah County, at a point approximately 1325 feet east from the west line of said Sec. 16.

A county highway, at m.p. 707 plus 173 feet, on Section line between Sec. 16 and 21, Twp. 6 South, R. 2 E., Utah County, at a point approximately 310 feet east from the southwest corner of said Sec. 16.

State highway U-114 at m.p. 707 plus 835 feet on Section line between Sec. 16 and 17, Twp. 6 South, R. 2 E., Utah County, at a point approximately 560 feet north from the southwest corner of said Sec. 16.

At county highway crossing to Geneva Steel Plant at m.p. 708 plus 995 feet, on Section line between Sec. 8 and 17, Twp. 6 South, R. 2 E., Utah County, at a point approximately 2700 feet west from the northeast corner of said Sec. 17.

as shown by blueprint attached to application, and by reference hereby made a part hereof.

That the construction, operation and maintenance of the proposed second main track will be in the public interest and will not create any undue hazards to motorists or others using the crossing, and will facilitate the movement of traffic to the Geneva Steel Plant at Geneva, Utah, without interruption of traffic moving on the main line of said applicants.



STATE OF UTAH  
DEPARTMENTAL MEMORANDUM

2710

From  
DEPARTMENT

DATE: July 20, 1943

DIVISION Inspection

FILE:

To  
DEPARTMENT Public Service Commission

SUBJECT: Report of investigation made regarding application made by The Denver and Rio Grande Western Railroad Company to construct a second main line track paralleling their present main line track in Utah County.

DIVISION



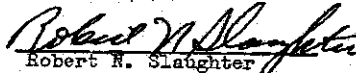
To the Commission:

On July 16, 1943, the Denver and Rio Grande Western Railroad Company filed an application with the Public Service Commission requesting permission to construct a second main line track parallel to their present main line track in Utah County between mile post 702 plus 3,136 feet and mile post 708 plus 2,240 feet. In the application the Railroad Company asks for permission to cross eight highways six of which are designated as County Roads and two of which are designated as State Highways; namely, U114 and SR78. The purpose of this second main line track is to serve the Geneva Steel Plant without interruption to their main line of traffic.

On July 19, 1943, I made an inspection of the crossing sites, and I recommend to the Public Service Commission that this application be granted; that the Denver and Rio Grande Western Railroad Company be required to properly bond the tracks in order that the crossing signals will give the necessary warning to motorists; and that the new track be constructed at grade with the other main line track in case of the necessity of improvement to the present State Highway.

I was informed by officials of the State Road Commission that there was no objection to this work being done providing this track was built at grade with the present track. I have also been informed that the officials of Utah County will approve this program as outlined by the Denver and Rio Grande Western Railroad Company.

Respectfully submitted,

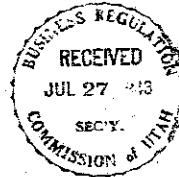
  
Robert N. Slaughter  
Inspector

COMMISSIONERS  
R. J. MITCHELL, Chairman  
W. J. JENSEN  
S. W. CLARK  
C. A. GRANT, County Clerk  
ERNEST H. HADSEN,  
Deputy County Auditor



THEODORE S. HALL, Sheriff  
FRANK T. BENNETT, Treasurer  
ELOISE P. TIPPIN, Recorder  
LAWRENCE M. ATWOOD, Assessor  
ARNOLD C. ROYLAND, Coroner  
LAVENIA D. SPEER, Auditor

**UTAH COUNTY**  
STATE OF UTAH  
PROVO, UTAH  
July 23, 1943



Honorable Board of County Commissioners  
City & County Building  
Provo, Utah

Gentlemen:

I went over the D. & R.G. RR. today, from the viaduct on West Center Street north to the Geneva plant and inspected grade crossings as indicated on the blueprint, and report and recommend as follows:

Highway Crossing at M.P. 705+ 1433'. Visibility clear, except for a few useless trees on the East side of track. Highway road grade good. Highway Crossing at M.P. 704 + 1203'. Visibility clear. County Road grade both sides of R.R. track should be raised to grade of track for a distance from tracks of at least 100 feet. Highway Crossing M.P. 704 + 3280'. Visibility clear, except for a few trees on east side of R.R. track. County road grade on West side should be raised to grade of tracks. Highway Crossing M.P. 705+ 4597'. Visibility clear. Highway grade should be raised to level of R.R. tracks on the west side. Highway Crossing M.P. 706 + 2365'. Visibility clear, Highway grade ok. Highway Crossing M.P. 707 + 173'. Visibility clear, except for best loading station on West side of tracks. Highway grade from the west and between the two R.R. tracks should be raised to grade of R.R. track. Highway Crossing 707 + 825' ok. Highway crossing 708 + 995'. Entrance into Steel Plant. Visibility clear. Highway grade should be raised on west side.

I find no reason why the request of the Denver & Rio Grande Western R.R. Company should not be granted.

Very truly yours,

*Robert L. Wilson*  
Utah County Surveyor

RLW/bob

400 N.  
Crossing

MP 708+2240'  
End Proposed  
2<sup>nd</sup> Main Track

Leave

MP 708+995'  
Highway Xing

708

Geneva  
(Steel Mill)

MP 707+835'  
Paved Highway Xing

MP 707+173'  
Highway Xing

707

Geneva

MP 706+2365'  
Highway Xing

706

400 S.  
Crossing  
at  
Geneva  
Road

- 400 S.  
Crossing

Genera  
(Steel Mill)

M.P. 707+835'  
Paved Highway Xing

M.P. 707+173'  
Highway Xing

707

Cronin

M.P. 706+2265'  
Highway Xing

706

M.P. 705+4597'  
Highway Xing

705+3671' UP Xing

Lakota

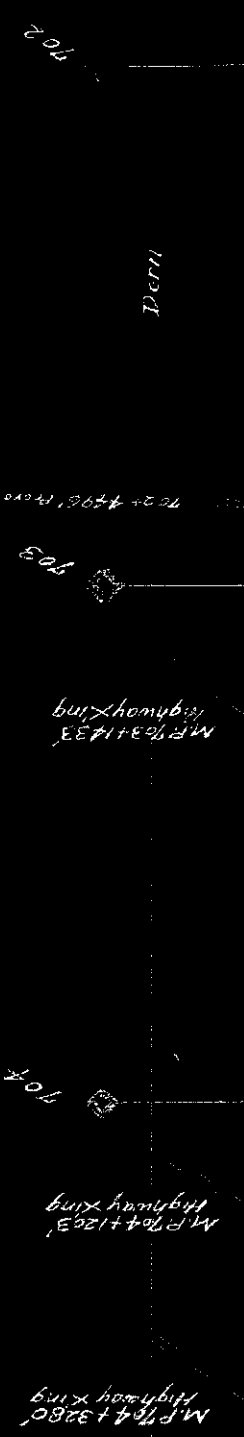
705

M.P. 704+3280'  
Highway Xing

M.P. 704+1203'  
Highway Xing

Gen  
M.P.

To Denver →



Legend  
 2nd Main Track Ext'n ---- Yellow  
 Highways to be crossed --- Shaded Yellow

The Denver & Rio Grande Western R.R.  
 Salt Lake Division  
 Proposed 2nd Main Track Extension  
 MP 702+3136 to MP 708+2240 and  
 Crossings of Public Highways.  
 No Scale  
 Div. Engrs. Office 6-30-43

M.P. 702+3136 Present end of 2nd Main Track

702+4798' Peavey River Bridge

M.P. 703+1733 Highway Xing

M.P. 704+1233 Highway Xing

M.P. 704+3280 Highway Xing

Construct 2nd Main Track M.P. 702+3136 to 708+2240

Perth

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application  
of UNION PACIFIC RAILROAD COMPANY,  
a corporation, for permission to  
construct an industry track at  
grade over and across a public  
highway in the vicinity of Geneva,  
Utah County, Utah, known and des-  
ignated as U-114.

AMENDED  
APPLICATION

Case 2714

Comes now the Union Pacific Railroad Company and re-  
spectfully shows:

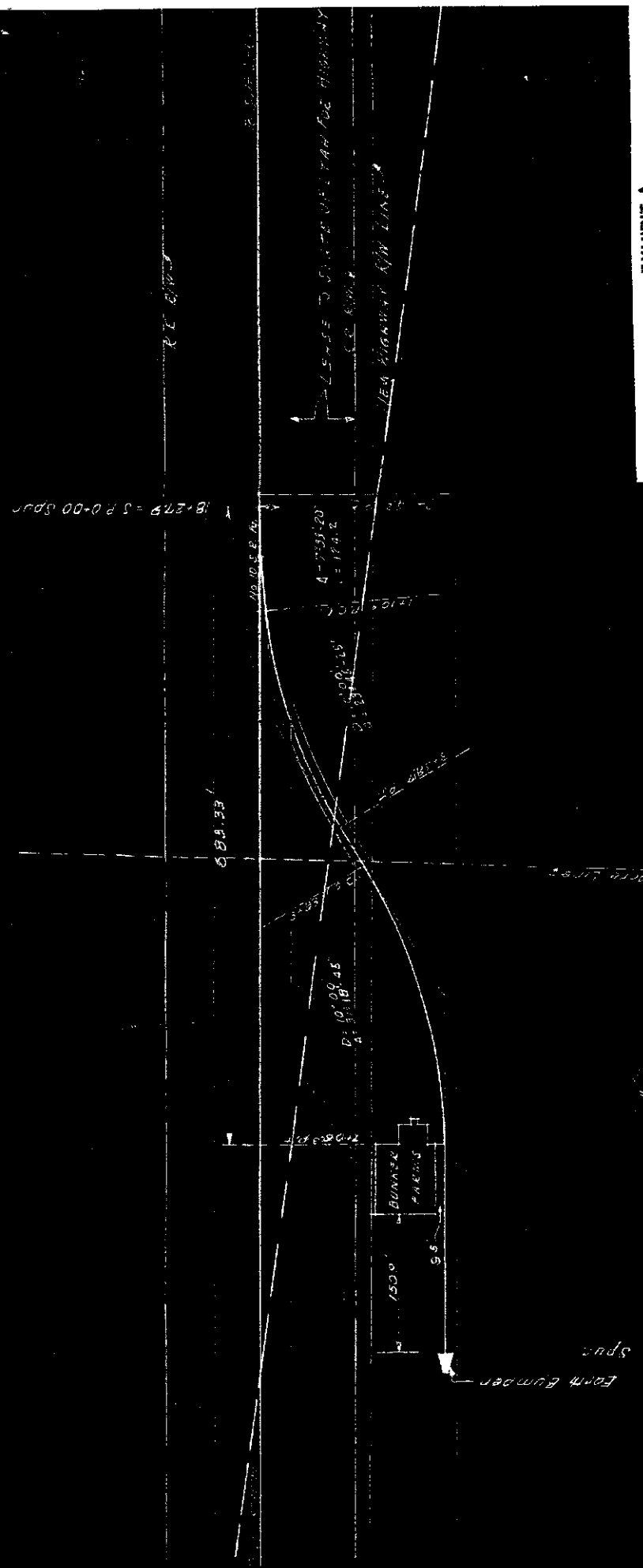
1. That it is a corporation organized under and existing  
by virtue of the laws of the State of Utah, and owns and operates  
over a large number of tracks in the State of Utah as well as in  
other states and is a common carrier for hire of freight, passen-  
gers, baggage and express.

2. That in the vicinity of the town of Geneva, Utah,  
Antoine L. Bunker and E. Carlyle Bunker, a copartnership doing  
business under the name and style of Bunker Farms, own and operate  
a feed mill known as the Bunker Feed Mill; that said copartnership  
receives shipments of grains from Utah and eastern points, includ-  
ing the soya bean meal from the East, fish meal from California,  
flour from all Utah points and salt from Salt Lake City, and grinds  
and mixes the same into feed which is sold direct to the farmers.

3. That at the present time said copartnership hereinbe-  
fore referred to have no rail facilities which serve their warehouse  
and feed mill and they receive shipments from time to time in car-  
load lots and are required, because of a lack of rail connection,  
to truck the same for approximately one mile to their place of busi-  
ness; that they have made application to the Union Pacific Railroad  
Company for the construction of a spur track over and across Utah  
Highway No. 114, at a point more particularly described as follows:

A 17 ft. strip of ground (8.5 ft. on each side of  
the center line of said spur track), located in the NE  
1/4 of the SE 1/4 of section 8; also in the SW 1/4 of  
the SW 1/4 of section 9, T. 6 S., R. 2 E., S.L.B. & M.  
The center line of said track and said strip of ground  
is described as follows:

Beginning at a point which is 33 ft. perpendicularly  
distant easterly from the center line of the U.P. R.R. Co.'s



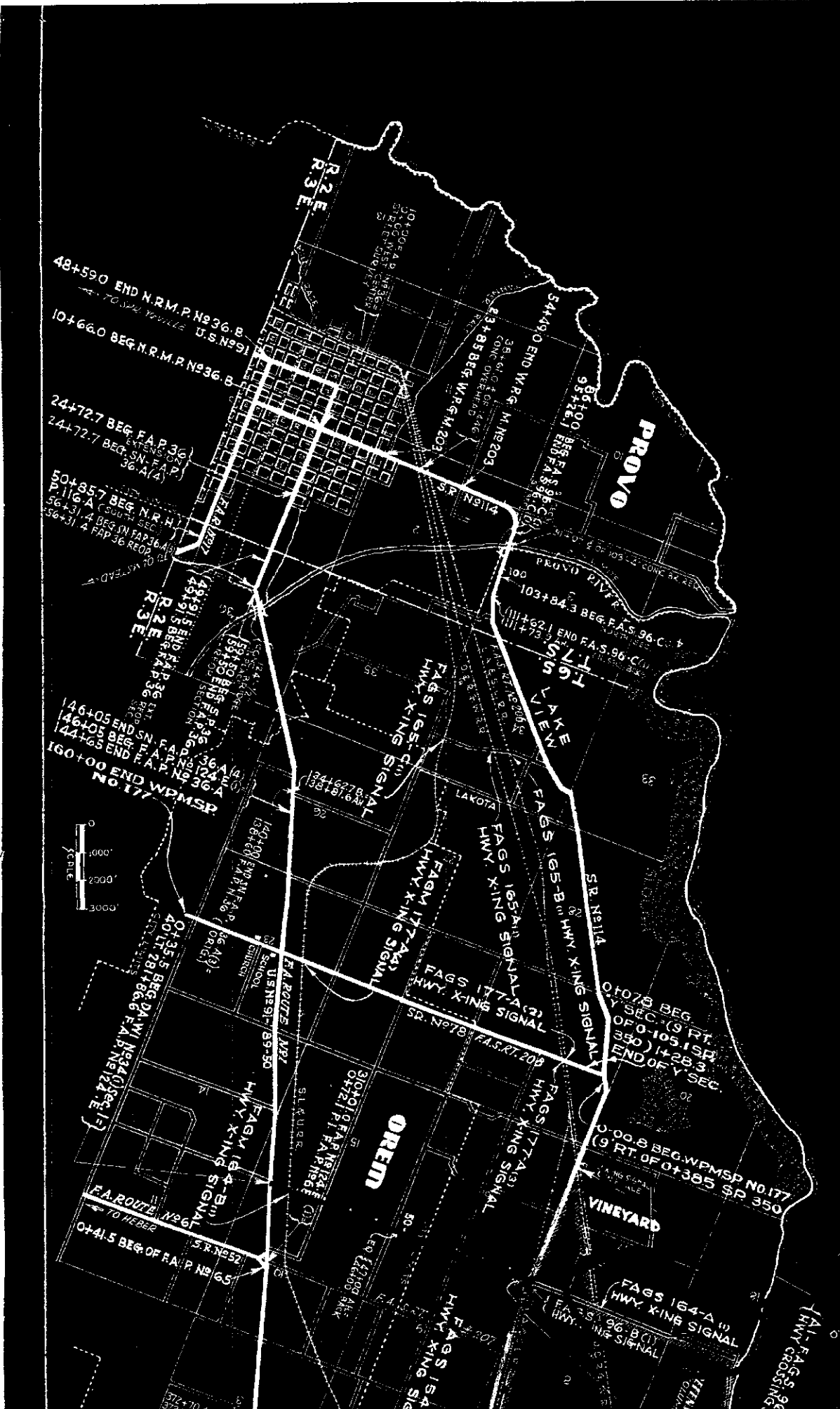
**EXHIBIT A**

UNION PACIFIC RAILROAD COMPANY  
 UTAH DIVISION  
 Geneva, Utah

Plat to Accompany Application  
 for Franchise crossing State  
 Highway U-114, Geneva, Utah.

Scale: 1" = 100' 9/24/45

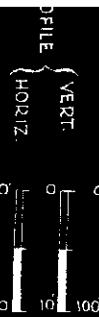




UTAH LAKE

PROFILE  
VERT  
109.1

400N  
Crossing



**INDEX TO SHEETS DA.WI. No 34(0) SEC.1**

SHEET	TITLE SHEET	DESCRIPTION	DRAWING	STATION
1	INDEX TO SHEETS			
2-2	INDEX TO SHEETS			
3-6	PLAN & PROFILE			
7	CHANNELIZATION			
9-10	STD. CURB & GUTTER		B.48, 1 & 2	
11-12	STD. HIGHWAY SIGNS		B.95, 1 & 2	
13	REINFORCING & JOINT DETAILS		B.94	
14	5' X 2' X 30" CONC. BOX (EXT. DT. 15')		E.750, 1 & 3	91+70
15	STD. HEADGATE		V.24, E.217	IT OF 81
16	STD. CATCH BASIN		V.310, E.119	IT OF 74
17	STD. GUARDRAIL		V.108, P. 1 & 2	IT OF 60
18	STD. P.V. FENCE		V.24, E.217	IT OF 60
19	STD. P.V. FENCE		V.24, E.217	IT OF 60

STATE ROAD COMMISSION OF UTAH

APPROVED APRIL 1943  
*[Signature]*  
 CHIEF DESIGN ENGINEER

RECOMMENDED FOR APPROVAL

DISTRICT ENGINEER  
 PUBLIC ROAD ADMINISTRATION  
 FEDERAL WORKS AGENCY

RECOMMENDED FOR APPROVAL

CHIEF, WESTERN REGION  
 PUBLIC ROAD ADMINISTRATION  
 FEDERAL WORKS AGENCY

APPROVED

COMMISSIONER  
 PUBLIC ROAD ADMINISTRATION  
 FEDERAL WORKS AGENCY

# UTAH

## STATE ROADS

STATE ROAD COMMISSION  
FEDERAL AID SYSTEM  
OTHER STATE ROADS

SCALE 1:50,000



# STAT STATE RO

PLANS OF P

FED

PRO

FAS P D° EAS. S

R.R. HIGH

D.A-W.I. D° 340

# BOARD OF UTAH ROAD COMMISSION

PROPOSED STATE ROAD  
FEDERAL AID PROJECT

NO - VINEYARD  
6-60 LENGTH 0.322 MILES  
HIGHWAY X-ING SIGNALS

SECTION LENGTH 1.840 MILES

SHEET NO.	STATE	F.A.S. PROJ. NO.	ISSUE YEAR	SHEET NO.	TOTAL SHEETS
12	UTAH	90-C-1	1940		17
12	UTAH	F.A.S. 165-B	1940		4
12	"	F.A.S. 165-A	1940		4
12	"	F.A.S. 165-C	1941		4
12	"	F.A.S. 177-A	1940		4
12	"	F.A.S. 177-B	1940		4
12	"	F.A.S. 177-C	1941		4
12	"	F.A.S. 164-A	1940		4
12	"	F.A.S. 164-B	1941		4
12	"	F.A.S. 154-B	1941		4
12	"	F.A.S. 164-A	1940		4
12	"	F.A.S. 34U	1943		18

## INDEX TO SHEETS F.A.S.

SHEET	DESCRIPTION	DRWG
1	Title Sheet	
2	Situation Plan	
3	Accessories & Signal Equ.	
4	Warning Diagram	

## INDEX TO SHEETS F.A.S. No. 96-C (1)

SHEET NO.	DESCRIPTION	DRAWING	TITLING
1	TITLE SHEET		
2	TYPICAL SECTION		
3-4	PLAN AND PROFILE		
5-16	103'-4" OTOO CONC. BRIDGE	C-199	91+07
17-A	F.A.P. AND R/W MARKERS	J-391 RS	
17-B	WIDEN AND SUPER. CLIP. 45'	J-479	