

Renee Spooner (#6993)
Assistant Attorney General
Mark L. Shurtleff (#4666)
Utah Attorney General
4501 South 2700 West
Box 148455
Salt Lake City, Utah 84114-8455
Telephone: (801) 965-4168
Fax: (801) 965-4338
E-mail: rspooner@utah.gov

Attorneys for Utah Department of Transportation

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

	:	
	:	
In the Matter of Union Pacific Railroad's	:	
Petition for Relief against the Utah Department	:	DOCKET NO. 09-888-01
of Transportation	:	
	:	
	:	UTAH DEPARTMENT OF
	:	TRANSPORTATION'S ANSWER TO
	:	CROSS-PETITION
	:	
	:	
	:	

Utah Department of Transportation (“UDOT”) answers the Cross-Petition as follows:

1. Admits.
2. Admits.
3. Admits.

4. Is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 4.

5. Admits except deny that UDOT was acting for the benefit of UTA. UDOT asserts that UDOT is obligated to provide the notice.

6. Denies the notices were defective and admits that the notice stated 4000 North.

7. Is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 7.

8. Admits that UDOT received correspondence and documents from Vineyard Parties. UDOT is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in paragraph 8.

9. Admits that the Town of Vineyard owns and maintains Vineyard Road. UDOT denies that a public road extends over the Crossing.

10. Admits Anderson entities own the Geneva Property east of Vineyard Road and denies the remaining allegations.

11. Is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 11. However, upon information and belief, only employees, licensee or vendors used the Crossing, not the public.

12. Is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 12.

13. Denies. UDOT asserts that the Resolution and Order dated August 3, 1942 abandoned the Crossing. All county highways and easements located within the Geneva

Property were abandoned because that roads and easements were no longer needed for use by the general public.

14. Denies.

15. Admits that the crossing has crossing lights, crossing arms and railroad signs.

UDOT is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in paragraph 15.

16. Is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in paragraph 16. UDOT denies that the loss of this access may constitute inverse condemnation by UP, UDOT and UTA.

17. The Road Master Plan speaks for itself. UDOT is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in paragraph 17.

18. Admits Vineyard Town exercises sole jurisdiction and control of city streets within its boundaries. UDOT is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in paragraph 18.

19. Admits that the US DOT Crossing Inventory reflects the Crossing as a public at grade crossing. UDOT is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in paragraph 19.

20. Admits that it made a determination that the Crossing is public.

21. Denies.

22. Is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in paragraph 22.

23. Is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in paragraph 23.

24. Admits that it ordered the temporary closure of the Crossing and denies the remaining allegations.

25. Admits that it follows its rules and applicable statutes and denies the remaining allegations in paragraph 25.

26. Denies.

27. Denies.

28. Denies.

29. Denies.

30. Denies.

31. Admits.

32. Denies.

33. Denies.

34(2). Admits.

35(3). Denies.

36(4). Admits the gate has been opened with a No Trespassing sign on the fence and denies the remaining allegations.

37(5). Denies.

WHEREFORE, UDOT requests the following relief:

1. For the Commission to make a determination as to whether the Crossing is public or private.
2. If the Commission decides the Crossing is public, UDOT requests an order for a temporary closure.
3. For such relief as may be deemed appropriate by the Commission.

Dated this 21st day of December, 2009

Renee Spooner
Assistant Attorney General

MAILING CERTIFICATE

I hereby certify that I mailed a true and correct copy of the foregoing **UDOT's Answer to Cross-Petition**, postage prepaid, this ____ day of December, 2009, to the following:

Dennis M. Astill
Dennis M. Astill, PC
9533 South 700 East, Suite 103
Sandy, Utah 84070

David L. Church
Blaisdell and Church
5995 South Redwood Road
Salt Lake City, Utah 84123

Bruce Jones
UTA
3600 South 700 West
Salt Lake City, Utah 84119-4122

Reha K. Deal
Union Pacific Railroad
280 South 400 West, Suite 250
Salt Lake City, Utah 84101
