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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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In the matter of Union Pacific Railroad's  
Petition for Relief against the Utah Department  
of Transportation

**UNION PACIFIC RAILROAD  
COMPANY'S STATEMENT OF  
UNDISPUTED AND DISPUTED FACTS**

Docket No. 09-888-01

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In support of its petition, Union Pacific submits this Pre-hearing Statement of Undisputed and Disputed Facts related to the railroad grade crossing at 400 North in Vineyard, Utah, that is the subject of this dispute (the "Crossing"). Union Pacific reserves the right to supplement and/or amend this Statement before the hearing on this matter.

*Undisputed Facts*

The following relevant facts are not in dispute:

1. Union Pacific's predecessor, the Denver & Rio Grande Railroad, acquired the right of way in the area of the Crossing by deed dated 1881 from private property owner Stagg.
2. The right of way extended fifty feet on either side of the center line of the Union Pacific track.
3. When the railroad acquired the right of way from private property owner Stagg, no public road existed.

4. At some point between 1881 and 1942, 400 North came to cross Union Pacific's right of way at grade, and was apparently a public road.

5. On August 3, 1942, the County Commissioners of Utah County passed a Resolution and Order vacating portions of 400 North.

6. The Resolution and Order vacated and abandoned the north half of 400 North on the west side of the Crossing and going over the Crossing. And 400 North was vacated and abandoned in its entirety at the Defense Plant Corporation property line on the east side of the Crossing.

7. Shortly after the Resolution and Order was passed, the steel mill property was fenced, with the fence extending across what was once 400 North on the east side of the Crossing.

8. A gate was installed there to provide access, and the gate served for the next approximately sixty years to control access to the steel mill site.

9. Anderson Geneva acquired the property on the east side of the Crossing on December 23, 2005.

10. The gate closing off what was once 400 North on the east side of the Crossing was closed when Anderson Geneva began work on the development and remained closed until it was re-opened during the pendency of this action.

11. The Crossing was reconfigured by operators of the steel mill in the 1980s.

12. Union Pacific's tracks are active at this Crossing. Freight traffic over the Crossing is approximately eight to twenty trains per day.

*Disputed Facts*

1. From the date the steel mill became operational in the 1940s until it ceased operation in the 1980s, what had been 400 North was used on the east side of the Crossing as access for the employees and other business invitees of operators of the steel mill as access to a parking lot.
2. No public entity has conducted maintenance on the Crossing since 1942.
3. No requests have been made by anyone to enter the Union Pacific right of way to perform maintenance.
4. There were no pavement markings or advanced warning signs on the west side of 400 North at the time this dispute arose.
5. When the Crossing was reconfigured by operators of the steel mill in the 1980s, it was done without knowledge of or permission from Union Pacific or any municipality.
6. When the UTA commuter rail project is completed, commuter rail traffic is estimated to be sixty trains per day.

DATED this 30<sup>th</sup> day of June, 2010.

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Reha Kamas  
Attorneys for Union Pacific

**Certificate of Service**

I hereby certify that on the 30<sup>th</sup> day of June, 2010, a true, correct and complete copy of the foregoing was served upon the following attorneys in the manner indicated below:

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