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Attorneys for Union Pacific Railroad Company

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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 AMENDED AND  
SUPPLEMENTAL PRE-HEARING  
POSITION STATEMENT**

Docket No. 09-888-01

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At issue in this case is the status of an at-grade rail crossing at the location where 400 North crosses the Union Pacific and UTA right of way in Vineyard, Utah (the "Crossing"). The Utah Department of Transportation, reversing an earlier decision, has determined that the Crossing is a public crossing. Union Pacific challenges that conclusion and asks the Commission to find that the Crossing is a private crossing. In support of its petition, Union Pacific submits this Amended and Supplemental Pre-hearing Position Statement.

***Factual Background***

At the location of the Crossing, Union Pacific's predecessor, the Denver & Rio Grande Western Railroad, acquired the right of way by deed dated 1881 from private property owner Stagg. The right of way extends fifty feet on either side of the center line of the Union Pacific track.

At some point, 400 North came to cross Union Pacific's right of way at grade. To date, no documents have been located that reveal a legal arrangement by which this road became an authorized crossing of Union Pacific's right of way. Nor have any documents been found that reveal a dedication or other indication of the origin of the road.

On August 3, 1942, the County Commissioners of Utah County passed a Resolution and Order vacating portions of 400 North and giving title to property on the north and east sides of the Crossing to the Defense Plant Corporation, predecessor of Geneva Steel, for the construction of a steel mill. *See* Exhibit A. The Resolution and Order stated: "It further appearing that certain county roads traverse said plant site, which roads are no longer needed for use by the general public or freeholders living with the vicinity of said plant site, and that it is advisable that such county roads be vacated and abolished, and that Utah County quitclaim said plant site to the said Defense Plant Corporation." *Id.*

Specifically, 400 North was vacated and abandoned to the section line on the west side of the Crossing and going over the Crossing. In addition, 400 North was vacated and abandoned in its entirety on the east side of the Crossing at Union Pacific's east right of way boundary, which was also established as the Defense Plant Corporation's west property line. *See* Current Conditions Map, attached as Exhibit B.

At this time, the steel mill property was fenced, with the fence extending across what was once 400 North on the east side of the Crossing. A gate was installed there and served for the next approximately sixty years to control access to the steel mill site. Beyond the gate was a

parking lot. At the entrance to the parking lot was a guard shack. From the date the steel mill became operational in the 1940s until it ceased operation in the 1980s, 400 North beyond Vineyard Road (which runs parallel to the railroad tracks on the west side of the Crossing) was used solely as access for the employees and other business invitees of operators of the steel mill.

Anderson Geneva acquired the property on the east side of the Crossing on December 23, 2005. Anderson Geneva closed the gate on the east side of the Crossing when it began work on the development and the gate remained closed until it was re-opened during the pendency of this action.

No documents have been produced or located in discovery in this matter that show that any public entity has conducted maintenance on the Crossing or the approaches to it since 1942. No documents show any request to enter the Union Pacific right of way to perform maintenance. There were no pavement markings on the west side of 400 North at the time this dispute arose and, in fact, there had been no pavement markings since at least 1970. U.S. DOT Crossing Inventory Information, attached as Exhibit C.

However, the Crossing was reconfigured by operators of the steel mill in the 1970s or 1980s. There is no evidence that any other entity or municipality was involved or gave permission or funding for this relocation of the Crossing and the roadway approach to the Crossing on the west side.

Union Pacific's tracks are active at this Crossing. Freight traffic over the Crossing is approximately eight to twenty trains per day. When the UTA commuter rail project is completed, commuter rail traffic is estimated to be sixty trains per day.

***Standards***

“A crossing shall be classified as public if, and only if, the roadway is deemed a *public road* in accordance with 23 CFR Part 460.2.” Private Highway-Rail Grade Crossing Safety Research and Inquiry at 3. The Manual on Uniform Traffic Control Devices “defines a public highway-rail grade crossing as any intersection between a public roadway and railroad. The roadway on either side of the crossing must be a public roadway, i.e. under the jurisdiction of, and maintained by, a public authority and open to public travel. If either approach to a crossing does not qualify as a public roadway, then the crossing is typically classified as a private crossing.” *Id.*

Similarly, the National Highway-Rail Crossing Inventory Instructions and Procedures Manual states that a “public crossing” is “the location where railroad tracks intersect a roadway which is part of the general system of public streets and highways, and is under the jurisdiction of and maintained by a public authority and open to the general traveling public.” The Instructions and Procedures Manual for the Federal Railroad Administration Highway-Rail Crossing Inventory Data Maintenance Program (“FRA Manual”) at 1-5, attached as Exhibit D. Under the Code of Federal Regulations, “maintenance” means “preservation of the entire highway,

including surfaces, shoulders, roadsides, structures, and such traffic control devices as are necessary for its safe and efficient utilization.” 23 C.F.R. § 460.2(d).

Further, under the Code of Federal Regulations, a public street or highway is “any road under the jurisdiction of and maintained by a public authority and open to public travel.” 23 C.F.R. § 460.2(a). A street or highway is “open to public travel” when it is “available, except during scheduled periods, extreme weather or emergency conditions, passable by four-wheel standard passenger cars, and open to the general public for use without restrictive gates, prohibitive signs, or regulation other than restrictions based on size, weight or class of registrations.” *Id.* § 460.2(d).

“If the primary function of the road is to provide public access to a publicly owned facility for the principal purpose of on-site use by the public, then the facility may be deemed a logical terminus of a public roadway. . . . Thus, crossings which exist for the primary purpose of providing public access to publicly owned and operated facilities such as fairgrounds, parks, schools, libraries, hospitals, clinics, airports, bus terminals, beaches, piers, boat launching ramps, recreational facilities, etc., which permit access to or invite use by the general traveling public would satisfy the definition ‘open to public travel,’ even if the entrance thereto is equipped with gates to effect seasonal or periodic closures (such as overnight), or limit access, or require an entry fee for use.” FRA Manual 1-6.

Therefore, “[i]n general, a roadway across railroad track for which both approaches are maintained by a public authority and which is open to the public is considered a ‘public’

crossing. These are roadways that are part of the general system of public streets and highways. Some jurisdictions accept a crossing as 'public' when only one approach is publicly maintained. If a public authority accepts a crossing as 'public,' it is a public crossing. *All others are considered 'private.'*” FRA Manual at 1-6 (emphasis added).

A “private crossing is one that is on a private roadway which may connect to part of the general system of public streets and highways but is not maintained by a public authority. Usually, it is a crossing where the property on both sides *or at least one side* of the railroad tracks is private property. It may also be on a roadway that is publicly owned but which is either restricted or not intended for use by the general public. *Private crossings are generally intended for the exclusive use of the adjoining property owner and the property owner's family, employees, agents, patrons and invitees.* Crossings are classified as private where the normal need or use is for residential, farm, recreation/cultural, industrial or commercial activities.” FRA Manual 1-7 (emphasis added).

### *Analysis*

The Crossing at issue here does not meet the definition of a public crossing, and is therefore private.

#### **A. Under applicable standards, the Crossing is private**

##### **1. The Crossing leads to private property and has not been used by the public at least since 1942**

For the Crossing to be public, the roadway on either side must be a public roadway. The Crossing has not been open to public travel since the property on the east side was quitclaimed to

Defense Plant Corporation on August 10, 1942. The Resolution and Order quitclaiming the property stated that “certain county roads traverse said plant site, which roads are no longer needed for use by the general public or freeholders living within the vicinity of said plant site, and that it is advisable that such county roads be vacated and abolished . . . .” *See* Exhibit A.

The 1942 Resolution and Order recognized that the general public no longer needed access to the steel mill property. At that time, a gate was placed and the road was no longer open to public travel. The east side of the Crossing enters the mill property and was used by steel mill owners as an entrance to the mill for employees and others. Since closure of the steel mill, the Crossing has seen little traffic. In fact, the current landowners, Anderson Geneva, have placed a fence at or near the property line and have blocked off the road entering the property. The fence has been in place since some time in 2005. Therefore, the crossing has been closed to the public for approximately 67 years. It enters a “privately-owned roadway[] utilized only by the owner’s licensees and invitees.”

## **2. Even if a public right of way exists, it does not extend through the Crossing**

Further, whether or not any part of 400 North was located north of the section line in 1942 when the steel mill property was vacated and abandoned, and even if 400 North is construed to have been a public right of way as it entered the railroad right of way in 1942, there is not a public right of way today that extends all the way through the Crossing. *See* Current Conditions Map, attached as Exhibit B. The Crossing was reconfigured in the 1970s or 1980s. Even if there was a public right of way extending over the Crossing before the reconfiguration,

the reconfiguration relocated the Crossing in such a way as to move it off the public right of way, either substantially or totally. Any public right of way that remains in the Crossing does not extend all the way over the Crossing from the west side to the east side.

### **3. No public entity has conducted maintenance**

Lack of public maintenance also indicates that the Crossing is private. There is no evidence that the Crossing has been maintained by a public agency—on either side of the railroad tracks. There have been no pavement markings at the Crossing since at least 1970. In fact, the only significant alterations to the Crossing were made by steel mill operators in the 1980s, and there is no evidence of the participation of a public entity or of Union Pacific.

Public maintenance is required if the road traversing the Crossing is to be considered a public road. Since public maintenance has not been performed on the approaches to the Crossing, the road over the Crossing cannot be considered public. If the road over the Crossing is not public, the Crossing is not public.

For all of these reasons, the Crossing is a private crossing under the applicable standards.

### **B. The Crossing has never been determined to be public**

The Crossing has never been determined to be public in any prior administrative proceeding. Anderson Geneva argues that a 1943 Public Service Commission decision determined that the Crossing was public and that this decision should be given estoppel effect. Anderson Geneva stretches this ruling too far. The nature of the Crossing was not at issue.



Instead, as Anderson Geneva admits, in the 1943 action, the railroad sought permission to construct a second main line track. A list of all roads to be crossed by the second main line was included in the Public Service Commission's Tentative Order. The Crossing at issue was described as:

A county highway crossing to Geneva Steel Plant at m.p. 708 plus 925 feet, on section line between Sec. 8 and 27, Twp. 6 South, R. 2 E., Utah County, at a point approximately 2700 feet west from the northeast corner of said Sec. 17.

Case No. 2710 at 2, attached as Exhibit D.

The decision assumes but does not decide that 400 North is a "county highway." The decision does not address the question whether the Crossing is public or private. Notably, however, the description of 400 North in the Tentative Order differs from the descriptions of the other roads. Other county roads are identified merely as a "county highway," followed by the mile post location. By contrast, 400 North is identified as a "county highway crossing to Geneva Steel Plant." Similarly, the Utah County Surveyor wrote a letter to the Board of County Commissioners on July 23, 1943, in which the Surveyor described 400 North at this location as "Highway crossing . . . Entrance into steel plant." July 23, 1943, Letter from Utah County Surveyor to Board of County Commissioners, Exhibit D.

Further, the 1942 Report of Investigation made in connection with the railroad's request to construct the second main line refers to the roads to be crossed by the new rail line as "designated as County Roads." July 20, 1943, Report and Investigation at 1, Exhibit D. This strongly suggests that the parties and the Commission were relying on designations found

elsewhere and supports the conclusion that the Commission assumed, but did not decide, that 400 North was a “county highway crossing to Geneva Steel Plant.”

Collateral estoppel, or issue preclusion, is a judicially-created doctrine that “prevents parties or their privies from relitigating facts and issues in the second suit that were fully litigated in the first suit.” A party seeking to invoke collateral estoppel must show (1) the issue decided in the prior adjudication is identical to the one presented in the instant action; (2) the party against whom issue preclusion is asserted was a party, or in privity with a party, to the prior adjudication; (3) the issue in the first action was completely, fully, and fairly litigated; and (4) the first suit resulted in a final judgment on the merits.

*Gudmundson v. Del Ozone*, 232 P.3d 1059, 1067 (Utah 2010).

Because, in the 1943 Public Service Commission action it was assumed, rather than decided, that 400 North was a county highway, and because the question of whether the Crossing was public or private was not litigated or decided, collateral estoppel does not apply. The issues presented here were not raised in that action. The questions whether 400 North was a public road and whether the Crossing was a public crossing were not were not raised, were not fully and fairly litigated, and were not decided. Accordingly, this decision cannot be given estoppel effect.

**C. The FRA database does not serve as notice to developers of the status of a crossing**

Union Pacific acknowledges that the Crossing has been categorized as public in the FRA database. However, the FRA database was never intended to be used or relied upon by a private developer such as Anderson Geneva. The National Highway-Rail Crossing Inventory Data File is maintained by the Federal Railroad Administration (“FRA”) “*for use by States and railroads.*”

FRA Manual at 1-1, attached as AE Exhibit 22 to the Anderson Entities’ Statement of

Undisputed and Disputed Facts and Pre-hearing Position Brief (emphasis added). Further, there is no legal support for the argument that Union Pacific's contributions of information to a federal database can be construed as representations to every member of the public, and may be enforced under the doctrine of equitable estoppel.

The FRA database (formally named the National Highway-Rail Crossing Inventory Data File) arose out of a 1972 report of the United States Department of Transportation to Congress, which was aimed at providing recommendations "for alternative courses of action which would lead to a significant reduction in accidents, fatalities, personal injuries and property damage at highway-rail crossings. The report recommended the development of an adequate information system." *Id.*

The FRA "entered into a contract with the Association of American Railroads to develop a 'Comprehensive National Highway-Rail Crossing Information and Numbering System.' The project was established as a cooperative effort between all the nation's railroads and the U.S. Department of Transportation . . . ." *Id.* at 1-2 to 1-3.

Under the contract, the "railroad companies, with direction and guidance from the Association of American Railroads and the American Short Line Railroad Association, were assigned the responsibility for making a site-specific inventory of each highway-rail crossing and for installing a unique identifying number at each location. The railroads were also identified as being responsible for periodic update of certain inventory information and maintenance of the

crossing number.” *Id.* at 1-3. It is, therefore, inaccurate to state that Union Pacific has a statutory obligation with respect to the database.

Importantly, the FRA maintains two data files, the Inventory Data File and the Accident Data File. “Routinely, the highway-rail crossing accident data is integrated with inventory data and the information from the combination is used for the development of Federal programs, funding alternatives for crossing improvement, studies related to railroad safety programs, effectiveness of warning devices, high-speed railroad corridors, accident costs, public awareness and driver training, and other safety program development and research opportunities.” *Id.* at 1-3 (emphasis added). The information is *not* used to communicate to the public the whether railroad crossings such as the one at issue here are public or private.

Moreover, as UDOT is aware, the FRA database is often incorrect. Further, as set forth above, the definition of a public crossing in the FRA database is consistent with Union Pacific’s analysis and conclusion that the Crossing is private.

### ***Conclusion***

UTA will be operating commuter rail in this location shortly. The addition of commuter rail widens the Crossing, increases train volume, and places freight trains and commuter trains, operating at different speeds in the Crossing, potentially at the same time. Public use of an at-grade crossing with these characteristics potentially subjects Union Pacific to increased claims. In addition, public safety demands that a careful and accurate determination be made whether the Crossing is public or private. The evidence, as measured against the applicable standards,

indicates that the Crossing is private. For the reasons set forth above, Union Pacific respectfully requests that the Commission grant Union Pacific's petition and find that the Crossing is private.

DATED this 3rd day of August, 2010.



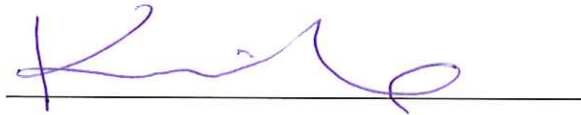
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Reha Kamas  
Attorneys for Union Pacific

**Certificate of Service**

I hereby certify that on the 3rd day of August, 2010, a true, correct and complete copy of the foregoing was served upon the following attorneys <sup>by e-mail</sup> ~~in the manner indicated below~~:

Dennis M. Astill	<input type="checkbox"/>	U.S. Mail
Dennis M. Astill, PC	<input type="checkbox"/>	Hand Delivered
9533 South 700 East, Suite 103	<input type="checkbox"/>	Overnight
Sandy, UT 84070	<input type="checkbox"/>	Facsimile
<i>Counsel for Anderson Geneva</i>	<input type="checkbox"/>	No Service
David L. Church	<input type="checkbox"/>	U.S. Mail
Blaisdell and Church	<input type="checkbox"/>	Hand Delivered
5995 Redwood Road	<input type="checkbox"/>	Overnight
Salt Lake City, UT 84123	<input type="checkbox"/>	Facsimile
<i>Counsel for Town of Vineyard</i>	<input type="checkbox"/>	No Service
Bruce Jones	<input type="checkbox"/>	U.S. Mail
UTA	<input type="checkbox"/>	Hand Delivered
3600 South 700 West	<input type="checkbox"/>	Overnight
Salt Lake City, UT 84119-4122	<input type="checkbox"/>	Facsimile
<i>Counsel for UTA</i>	<input type="checkbox"/>	No Service
Renee Spooner, Assistant General Attorney	<input type="checkbox"/>	U.S. Mail
4501 South 2700 West	<input type="checkbox"/>	Hand Delivered
Box 148455	<input type="checkbox"/>	Overnight
Salt Lake City, UT 84114	<input type="checkbox"/>	Facsimile
<i>Counsel for UDOT</i>	<input type="checkbox"/>	No Service

  
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# EXHIBIT A

On motion of Commission Johnson, seconded by Commissioner Clark, and passed, the following Resolution pertaining to roads within the Geneva Works area was passed:

RESOLUTION and  
ORDER

It appearing to the Board of County Commissioners of Utah County, Utah, that Defense Plant Corporation, a corporation created by Reconstruction Finance Corporation pursuant to Section 6d of the Reconstruction Finance Corporation Act, as amended, has acquired near Vineyard and within the limits of Utah County, Utah, the conveyance to it of an area containing approximately fifteen hundred (1500) acres of land and certain reliction lands adjacent thereto for the purpose of erecting blast furnaces, coke ovens, open hearth furnaces, and other facilities for the production of pig iron and steel, which tracts are commonly called the Geneva Plant Site, Placer 301; and

It further appearing that there are clouds upon the title to said lands resulting from improper redemption certificates or the nonpayment of taxes or conveyances to Utah County for road purposes, and for other reasons; and

It further appearing that certain county roads traverse said plant site, which roads are no longer needed for use by the general public or freeholders living within the vicinity of said plant site, and that it is advisable that such county roads be vacated and abolished, and that Utah County quitclaim said plant site to said Defense Plant Corporation;

NOW, on application of Defense Plant Corporation, good cause appearing therefor, and in consideration of the aid that has been extended by said Defense Plant Corporation in the construction of that certain road beginning at the southerly corner of said plant site and extending northwesterly along the west side of right of way of the Denver & Rio Grande Western Railroad to the southern boundary of Section 8, Township 8 South, Range 2 East, Salt Lake Meridian, it is hereby ordered:

1. That all county highways (except the county road bordering the lake and hereinafter referred to) and easements located within the lands hereinafter described be and the same are hereby declared to be abolished, and any order, ordinance or other action designating any such roads or easements as county highways be and the same is hereby vacated and repealed, and the County Clerk of Utah County is hereby authorized and directed to record a certified copy of this resolution and order in the office of the County Recorder of Utah County, Utah.

2. That Utah County, a body corporate and politic of the State of Utah, quitclaim to said Defense Plant Corporation all of the right, title and interest of Utah County in and to the lands hereinafter described, whether such interest was acquired for road purposes, by reason of nonpayment of taxes, or otherwise, reserving, however, to Utah County its lien upon said lands for general taxes for the year 1942, and the County Clerk of Utah County, Utah, is hereby authorized and directed to execute and deliver, on behalf of Utah County, Utah, such quitclaim deed to said Defense Plant Corporation.

The lands hereinabove referred to are located in Utah County, Utah, and are particularly described as follows, to-wit:

Beginning at a point on the West right of way line of the Union Pacific Railroad, said point being also on the East-West center section line of Section 5, and from which point the quarter corner between Sections 4 and 5, Township 8 South, Range 2 East, Salt Lake Base and Meridian, bears North 89° 32' 30" East 938.64 feet; thence South 89° 32' 30" West 6931.53 feet to the point of intersection of the said center section line produced with the Utah Lake Meander line; thence along said meander line as follows: South 4° 41' 50" East 989.17 feet; thence South 11° 26' 40" West 1755.57 feet; thence South 8° 34' 40" West 360.10 feet; thence South 8° 52' 0" East 1039.29 feet; thence South 4° 45' 50" West 1487.45 feet; thence South 7° 18' 10" East 1177.92 feet; thence South 5° 15' 10" East 765.60 feet to the intersection of the said meander line with the East line of County Road, Deed No. 5; thence South 28° 19' East 25.94 feet; thence South 97° 08' East 600.59 feet to the North line of said County Road; thence South 89° 59' 35" East 2079.00 feet along said North line of County Road; thence North 88° 49' East 372.90 feet to the section line between Sections 7 and 8, above Township and Range; thence South 0° 16' 10" East 27.72 feet to the corner common to Sections 7, 8, 17, and 18, above Township and Range; thence North 89° 20' 05" East 2768.11 feet along said Section line to the East right of way of the Denver and Rio Grande Railroad; thence South 30° 10' 10" East 5269.00 feet along said East-railroad right of way to the intersection with the West right of way of State Highway No. 114; thence North 0° 30' 40" West 4687.75 feet along the said West right of way of Highway 114, which right of way is parallel to and 33 feet West of the Center line of said highway, to the section line between Sections 8 and 17, above Township and Range; thence North 89° 20' 05" East 103.04 feet along said Section line to the West right of way fence of the Union Pacific Railroad, said right of way fence being parallel to and 33 feet West of the Center line of said railroad track; thence North 7° 54' West 8037.12 feet along said West railroad right of way to the point of beginning, containing 1523.681 acres.

EX - AE 8



MINUTES-Board of County Commissioners, Utah County, Utah

Also:

Beginning at a point on the Utah Lake Meander Line, said point being at the intersection of the East-West center section line of Section 6, Township 6 South, Range 2 East, Salt Lake Base and Meridian, and said Meander Line, from which point of intersection the East quarter corner of said Section 6 bears North 89° 32' 30" East 2453.69 feet; thence along said Utah Lake Meander Line as follows: South 4° 41' 50" East 959.17 feet; thence South 11° 26' 40" West 1755.57 feet; thence South 8° 34' 40" West 350.10 feet; thence South 8° 52' 00" East 1039.29 feet; thence South 4° 45' 50" West 1487.45 feet; thence South 7° 10' 10" East 1177.92 feet; thence South 5° 13' 10" East 765.60 feet to the intersection of said Meander Line with the East line of County Road; Deed No. 5; thence South 29° 19' East 25.94 feet along said East line of County Road; thence South 9° 06' East 603.69 feet to the North line of said County Road; thence due West to the water's edge 880 feet, more or less; thence Northerly along said water's edge 8100 feet, more or less, to a point which lies due west of the point of beginning; thence due East from said water's edge 1450 feet, more or less, to the point of beginning; it being intended by this instrument to include within the foregoing description all reliction lands West of said meander line as above described and the water's edge of Utah Lake, including or excluding, as the case may be, the area occasioned by the rise or fall of the Lake.

Excepting, however, from the above described lands that certain county road running in a northerly and southerly direction and located west of said meander line, and which road begins at the Southwest corner and terminates at the Northwest corner of the property first above described.

PASSED by the Board of Utah County Commissioners this 3 day of August, A.D. 1942.

R. J. Murdock  
William J. Johnson  
Sylvan Clark  
BOARD OF UTAH COUNTY  
COMMISSIONERS

ATTEST: C.A. Grant  
County Clerk  
(Seal)

On motion of the County Sheriff, Wayne Soffe and Louis Petro, special deputy sheriffs at Geneva Works, were released, and Frank Mitchell, a special deputy at Ironton, was also released.

On motion of Commissioner Clark, seconded by Commissioner Johnson, and passed, the County Fair for 1942 was cancelled in keeping with the federal recommendation.

In recognition of the work done by the 4-H Clubs in connection with the annual County Fair (cancelled for this year) the Commissioners agreed to appropriate \$349.00 for the use of the clubs in their work projects.

Claims were presented and approved for payment as per certified lists on file with the County Clerk, County Auditor, and County Treasurer.

ATTEST: C. A. Grant  
County Clerk.

R. J. Murdock  
CHAIRMAN OF THE BOARD

August 10, 1942.

The Board of Utah County Commissioners met in regular session in their place of meeting in the City and County Building at Provo, Utah, on Monday, August 10, 1942.

On roll call the following were present:

Chairman R. J. Murdock, Commissioner  
Wm. J. Johnson, Commissioner  
Sylvan Clark, Commissioner  
C.A. Grant, County Clerk.

The Chairman was authorized to sign the following Correction Letters, Nos. 10560, 10564, 10565, 10568, 10567, 10565, 10568, 10570.

The following hospital bill was approved and ordered paid:

\$40.00 to Dr. W.H. Groves of the L.D.S. Hospital for services for Mrs. Beatrice Fox.

The following special deputy sheriffs without pay were appointed: Clinton H. Roberts, J.F. Johnson, to serve at Geneva Works; Wm. H. Brown at Ironton; Silas V. Ford, D. & R.G.W.R.R. at Thistle.

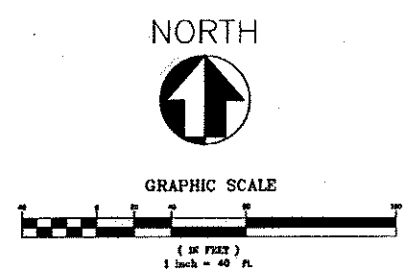
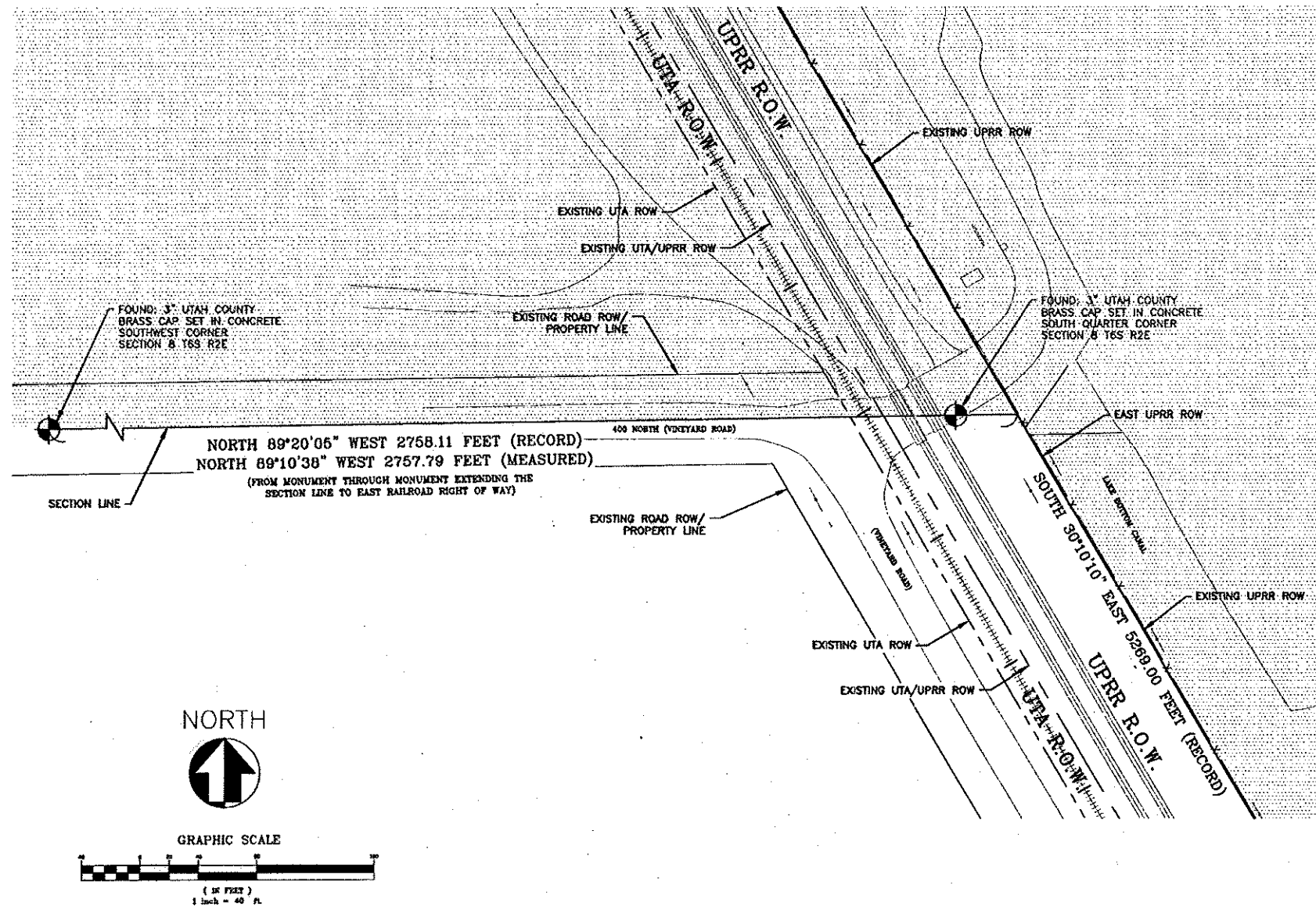
EX - AE 8

August 19

# EXHIBIT B


# UTAH COUNTY ROAD ABANDONMENT RECORD OF SURVEY

VINEYARD, UTAH COUNTY, UTAH  
A PARCEL OF LAND LOCATED IN SECTIONS 8 AND 17,  
TOWNSHIP 8 SOUTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN.



**SURVEYOR'S CERTIFICATE**

I, William L. Clark, do hereby certify that I am a Professional Land Surveyor, and that I hold certificate No. 5251265 as prescribed under the laws of the State of Utah. I further certify that a survey of the property described hereon was performed by me or under my direction, and that this plot correctly depicts the findings of that survey.

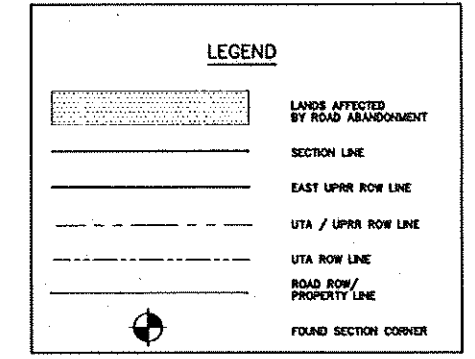
  
 W.L. Clark  
 P.L.S. No. 5251265  
 Date: 5-26-09


**SURVEYOR'S NARRATIVE**

THE PURPOSE OF THIS SURVEY IS TO DEPICT THE LOCATION OF THE LANDS REFERRED TO IN THAT CERTAIN RESOLUTION AND ORDER OF THE BOARD OF COUNTY COMMISSIONERS OF UTAH COUNTY, UTAH, RECORDED AUGUST 10, 1948 AS DOCUMENT "AAS319" IN BOOK 3, PAGE 303, UTAH COUNTY RECORDS, AS IT AFFECTS THE INTERSECTION OF 400 NORTH "VINEYARD" AND THE UNION PACIFIC RAILROAD RIGHT OF WAY. THIS SURVEY DEPICTS THE LOCATION OF THE SECTION LINE AND EAST RIGHT OF WAY OF THE UNION PACIFIC RAILROAD REFERRED TO IN LINES 23 - 25 OF THE LEGAL DESCRIPTION PER SAID RESOLUTION, BEING MORE SPECIFICALLY DESCRIBED AS:

"...TO THE CORNER COMMON TO SECTIONS 7, 8, 17, AND 16, ABOVE TOWNSHIP AND RANGE (T8S, R2E); THENCE NORTH 89°20'06" EAST 2758.11 FEET ALONG SAID SECTION LINE TO THE EAST RIGHT OF WAY OF THE DENVER AND RIO GRANDE RAILROAD; THENCE SOUTH 30°10'10" EAST 5269.00 FEET ALONG SAID EAST RAILROAD RIGHT OF WAY...."

PSOMAS HAS MEASURED SAID SECTION LINE AND RAILROAD RIGHT OF WAY LINE IN THE FIELD AND BOTH ARE DEPICTED ON THIS SURVEY. THE SUBJECT SECTION LINE, BEING THE COMMON LINE TO SECTIONS 8 AND 17, TOWNSHIP 8 SOUTH, RANGE 2 EAST, EXISTS APPROXIMATELY IN THE CENTER OF THE IMPROVED ROADWAY OF 400 NORTH (AS SHOWN). THE LANDS AFFECTED BY SAID RESOLUTION (ROAD ABANDONMENT) ARE SHOWN IN HATCHING.



  
 No. 5251265  
 WILLIAM L. CLARK  
 STATE OF UTAH

DATE: 05/26/09

SCALE: 1"=40'

PROJECT NO.: BPAR020300

UTAH COUNTY ROAD ABANDONMENT  
RECORD OF SURVEY

VINEYARD, UTAH COUNTY, UTAH  
A PARCEL OF LAND LOCATED IN SECTIONS 8 AND 17,  
TOWNSHIP 8 SOUTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN.

PSOMAS

4179 Rowland Road, Suite 200  
 Salt Lake City, Utah 84123  
 (801) 770-5777 (801) 770-5782 (FAX)

PREPARED BY: W.L.C.

CHECKED BY: D.M.C.

DATE: W.L.C.

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# EXHIBIT C

**U.S. DOT - CROSSING INVENTORY INFORMATION**  
**AS OF 1/29/2009**

Crossing No.: 264003N Update Reason: Changed Crossing Effective Begin-Date of Record: 04/07/99  
 Railroads: UP Union Pacific RR Co, [UP ] End-Date of Record:  
 Including Agency State Type and Position: Public At Grade

**Part I Location and Classification of Crossing**

Division: DENVER State: UTAH  
 Subdivision: 6 County: UTAH  
 Branch or Line Name: MAINLINE City: Near OREM  
 Railroad Milepost: 6706.19 Street or Road Name: WGAZIE ON WGENEVA  
 Railroad I.D. No.: WA 708.49 Highway Type & No.:  
 Next/RR Timetable Sign: HSR Corridor ID:  
 Parent Railroad: County Map Ref. No.: 25-3-11  
 Crossing Owner: ENS Sign Installed: 46,298,910  
 Passenger Service: -111,733,070  
 Avg Passenger Train Count: 0  
 Adjacent Crossing with Same ID Number:  
 Quiet Zone: No

**Private Crossing Information:**

Category: Specify Sign: Public Access: Specify Signal:  
 Railroad Use: STRR A STRR B STRR C STRR D  
 State Use:  
 Narrative:  
 Emergency Contact: (800)840-8775 Railroad Contact: State Contact:

**Part II Railroad Information**

Number of Daily Train Movements:  
 Total Trains: 29 Tent Switching: 0  
 Typical Speed Range Over Crossing: From 45 to 50 mph  
 Type and Number of Trains: Main: 1 Other: 1 Specify: SIDING  
 Does Another RR Operate a Separate Track at Crossing? No  
 Does Another RR Operate Over Your Track at Crossing? No

**U.S. DOT - CROSSING INVENTORY INFORMATION**  
 Continued

Crossing 264003N Effective Begin-Date of Record: 04/07/99  
 End-Date of Record:

**Part III: Traffic Control Device Information**

Signs:  
 Highway Stop Sign: 0  
 Advance Warning: Yes  
 Pavement Markings: No Markings  
 Other Signs: 0 Specify:  
 Train Activated Devices:  
 Gates: 2  
 Mast Mounted FL: 2  
 Conflavored FL (Over): 0  
 Other Flashing Lights: 0  
 Highway Traffic Signals: 0  
 Other Train Activated Warning Devices:  
 Channelization: Yes  
 Track Equipped with Train Stands? Yes  
 Type of Train Detection: DC/AFO  
 Traffic Light Information: N/A  
 Smallest Crossing Angle: 60 to 90 Degree  
 Any Track Pullout Lanes Present? No  
 If Other:  
 Is it Signalized?  
 Is Crossing Illuminated?

**Part IV: Physical Characteristics**

Type of Development: Industrial  
 Number of Traffic Lanes Crossing Railroad: 4  
 Is Highway Paved? Yes  
 Crossing Surface: Timber  
 Nearby Intersecting Highway? Less than 75 feet  
 Does Track Run Down a Street? No  
 Is Commercial Power Yes

**Part V: Highway Information**

Highway System: Non-Federal-Aid  
 Is Crossing on State Highway System: No  
 Annual Average Daily Traffic (AADT): 003725  
 Estimated Percent Trucks: 10  
 Posted Highway Speed: 0  
 Functional Classification of Road at Crossing: Urban Local  
 AADT Year: 1999  
 Avg. No of School Buses per Day: 0

**U.S. DOT - CROSSING INVENTORY INFORMATION**  
**AS OF 1/29/2009**

Update Reason: **Changed Crossing** Effective Begin-Date of Record: **04/01/08**  
 End-Date of Record:

Crossing No.: **254003N** Union Pacific RR Co, **UP J**  
 Initiating Agency: **State** Type and Position: **Public At Grade**

**Part I Location and Classification of Crossing**

Division: **DENVER** State: **UT**  
 Subdivision: **0** County: **UTAH**  
 Branch or Line Name: **MAINLINE** City: **NEAR OREM**  
 Railroad Milepost: **6706.70** Street or Road Name: **WYATTE OR WGENEVA**  
 Railroad I.D. No.: **WA 708.10** Highway Type & No.:  
 Nearest RR Timetable Sign:  
 Parent Railroad:  
 Crossing Owner:  
 ENS Sign Installed:  
 Passenger Services:  
 Avg Passenger Train Count: **0**  
 Adjacent Crossing with  
 Same No.:

**Private Crossing Information:**

Category: Public Access: Specify Signal: Specify Signal:  
 Railroad Use: **STRR A** **STRR B** **STRR C** **STRR D**  
 State Use:  
 Narrative:  
 Emergency Contact: **(800)640-8775** Railroad Contact: State Contact:

**Part II Railroad Information**

Number of Daily Train Movements:  
 Total Trains: **20** Total Switching: **0** Less Than One Movement Per Day: **No**  
 Typical Speed Range Over Crossing: From **45** to **60** mph Day Trains: **10**  
 Type and Number of Tracks: Main: **1** Other: **1** Maximum Time Table Speed: **70**  
 Does Another RR Operate a Separate Track at Crossing? **No** Specify: **SIG/NO**  
 Does Another RR Operate Over Your Track at Crossing? **No**

**U.S. DOT - CROSSING INVENTORY INFORMATION**  
**Continued**

Crossing: **254003N** Effective Begin-Date of Record: **04/01/08**  
 End-Date of Record:

**Part III: Traffic Control Device Information**

Signs: Highway Stop Sign: **0**  
 Advance Warning Sign: **0**  
 Pavement Markings: **No Markings** Other Signs: **0** Specify:  
 Train Activated Devices:  
 Gates: **2**  
 Mast Mounted FL: **2**  
 Cantilevered FL (Over): **0**  
 Other Flashing Lights: **0**  
 Highway Traffic Signal: **0**  
 Other Train Actuated Warning Devices:  
 Channelization: **Yes**  
 Track Equipped with Train Signals? **Yes**  
 Type of Train Detection: **DC/AFD**  
 Traffic Light Intercommunication/Provision: **N/A**  
 Highway Stop Sign: **0**  
 Advance Warning Sign: **0**  
 Other Signs: **0** Specify:  
 4 Quad or Full Barrier:  
 Total Number FL Pairs: **0**  
 Cantilevered FL (Not over): **0**  
 Specialty Other Flashing Lights:  
 Wipers: **0**  
 Special Warning Devices Not Train Actuated:  
 Type of Train Detection: **DC/AFD**  
 Traffic Light Intercommunication/Provision: **N/A**  
 Shortest Crossing Angle: **60 to 90 Degree**  
 Are Truck Pullout Lanes Present? **No**  
 If Other:  
 In R Signalizer?  
 In Crossing Illuminated?

**Part IV: Physical Characteristics**

Type of Development: **Industrial**  
 Number of Trains Lanes Crossing Railroad: **4**  
 In Highway Pavement? **Yes**  
 Crossing Surface: **Timber**  
 Nearby Intersecting Highway? **Less than 75 feet**  
 Does Track Run Down a Street? **No**  
 Is Commercial Power Available? **Yes**

**Part V: Highway Information**

Highway System: **Non-Federal-Aid** Functional Classification of Road at Crossing: **Urban Local**  
 Is Crossing on State Highway System? **No**  
 Annual Average Daily Traffic (AADT): **003725** AADT Year: **1985**  
 Estimated Percent Trucks: **10** Avg. No of School Buses per Day: **0**  
 Peak Highway Speed: **0**

**U.S. DOT - CROSSING INVENTORY INFORMATION**  
AS OF 1/29/2009

Crossing No.: 264002N Update Reason: Changed Crossing Effective Begin-Date of Record: 04/07/90  
 Railroad: UP Union Pacific RR Co. [UP J] End-Date of Record: 03/31/99  
 Initiating Agency: Railroad Type and Position: Public At Grade

**Part I Location and Classification of Crossing**

Division: DENVER State: UT  
 Subdivision: 6 County: UTAH  
 Branch or Uno Name: MAXWELL City: Near OREM  
 Railroad Milepost: 0708.19 Street or Road Name: 400 NORTH  
 Railroad I.D. No.: WA 700.19 Highway Type & No.:  
 Nonroad RR Timetable Sign: HSR Control ID:  
 Parent Railroad: County Map Ref. No.: 25-3-11  
 Crossing Owner: 462978010  
 ENS Sign Included: -111.7331010  
 Passenger Service: Latitude:  
 Avg Passenger Train Count: 0 Longitude:  
 Adjacent Crossing with Same No.:  
 Schematic Number: Quiet Zone:

**Private Crossing Information:**

Category: Public Access: Specify Signal: ST/RR A ST/RR B ST/RR C ST/RR D  
 Railroad Use: ST/RR A ST/RR B ST/RR C ST/RR D  
 State Use:  
 Narrative:  
 Emergency Contact: Railroad Contact: State Contact:

**Part II Railroad Information**

Number of Daily Train Movements: Less Than One Movement Per Day: No  
 Total Trains: 20 Total Switching: 0 Day Thru: 10  
 Typical Speed Range Over Crossing: From 45 to 50 mph Maximum Time Table Speed: 70  
 Type and Number of Trains: Main: 1 Other: 1 Specify: SID/NG  
 Does Another RR Operate a Separate Track at Crossing? No  
 Does Another RR Operate Over Your Track at Crossing? No

**U.S. DOT - CROSSING INVENTORY INFORMATION**  
Continued

Crossing 264002N Effective Begin-Date of Record: 04/07/90  
 End-Date of Record: 03/31/99

**Part III: Traffic Control Device Information**

Signs: Highway Stop Sign: 0  
 Crossbucks: 0  
 Advance Warning: Yes  
 Pavement Markings: No Markings  
 Other Signs: 0 Specify:  
 Train Activated Devices:  
 Gates: 2  
 Manual Manned FL: 2  
 Cantilevered FL (Over): 0  
 Other Flashing Lights: 0  
 Highway Traffic Signal: 0  
 Other Train Activated Warning Devices:  
 Chime/Alarm: Yes  
 Track Equipped with Train Stenalty: Yes  
 4 Quad or Full Center: 0  
 Total Number FL Fail: 0  
 Cantilevered FL (Not over): 0  
 Specify Other Flashing Lights:  
 Wavyops: 0 Balls: 1  
 Special Warning Devices Not Train Activated:  
 Type of Train Detection: DC/AFD  
 Traffic Light Information/Precedence:

**Part IV: Physical Characteristics**

Type of Development: Industrial  
 Number of Traffic Lanes Crossing Railroad: 4  
 Is Highway Paved? Yes  
 Crossing Surface: Timber  
 Nearby Intersecting Highway? Less than 75 feet  
 Does Track Run Down a Slope? No  
 Is Commercial Power Yes  
 Smallest Crossing Angle: 60 to 90 Degrees  
 Are Truck Pullout Lanes Present? No  
 If Other:  
 Is it Signalized?  
 Is Crossing Illuminated?

**Part V: Highway Information**

Highway System: Non-Federal-aid  
 Is Crossing on State Highway System: No  
 Annual Average Daily Traffic (AADT): 003725  
 Estimated Percent Trucks: 10  
 Posted Highway Speed: 0  
 Functional Classification of Road at Crossing: Urban Local  
 AADT Year: 1999  
 Avg. No of School Buses per Day: 0

**U.S. DOT - CROSSING INVENTORY INFORMATION**  
**AS OF 1/29/2009**

Update Reason: **Changed Crossing** Effective Begin/Date of Record: **07/15/94**  
 End/Date of Record: **03/31/88**

Creating No.: **254933W** DRG **Denver & Rio Grande Western RR Co. (DRGW)**  
 W

Initiating Agency **Railroad** Type and Position: **Public At Grade**

**Part I Location and Classification of Crossing**

Division: **DENVER** State: **UT**  
 Subdivision: **6** County: **UTAH**  
 Branch or Lino Name: **MAINLINE** City: **Near OREM**  
 Railroad Milepost: **0708.19** Street or Road Name: **400 NORTH**  
 Railroad I.D. No.: **17A 708.19** Highway Type & No.: **25-3411**  
 Nearest RR Timetable Sht: **40.2918010**  
 Parent Railroad: **-111.7391910**  
 Crossing Owner:  
 ENS Sign Installed:  
 Passenger Service:  
 Avn Passenger Train Count: **0**  
 Adjacent Crossing with  
 Same ID Number:

**Private Crossing Information:**

Category: Public Access: Specify Signals:  
 Railroad Use: **ST/RR A** **ST/RR B** **ST/RR C** **ST/RR D**  
 State Use:  
 Narrative:  
 Emergency Contact: Railroad Contact: State Contact:

**Part II Railroad Information**

Number of Daily Train Movements:  
 Total Trains: **20** Total Switching: **0** Less Than One Movement Per Day: **No**  
 Typical Speed Range Over Crossing: From **45** to **50** mph Day Time: **70**  
 Type and Number of Trains: Maint: **1** Other: **1** Maximum Time Table Speed: **70**  
 Does Another RR Operate a Separate Track at Crossing? **No**  
 Does Another RR Operate Over Your Track at Crossing? **No**

**U.S. DOT - CROSSING INVENTORY INFORMATION**  
**Continued**

Effective Begin/Date of Record: **07/15/94**  
 End/Date of Record: **03/31/90**

Creating No.: **254933W**

Part III: Traffic Control Device Information

Signs:  
 Crossbucks: **0** Highway Stop Signs: **0**  
 Advanced Warning: **Yes** Hump Crossing Sign: **0**  
 Pavement Markings: **No Markings** Other Signs: **0** Speedy: **0**

Train Activated Devices:  
 Gallop: **2** 4 Quail or Full Barrier: **0**  
 Most Mounted FL: **2** Total Number FL Pairs: **0**  
 Cantilevered FL (Not over): **0** Cantilevered FL (Not over): **0**  
 Other Flashing Lights: **0** Speedy Other Flashing Lights:  
 Highway Traffic Signals: **0** Wgways: **0** Balls: **1**  
 Other Train Activated  
 Warning Devices:  
 Charnelization:  
 Track Equipped with  
 Train Alarm: **Yes** Type of Train Detection: **DC/AF0**

**Part IV: Physical Characteristics**

Type of Development: **Industrial**  
 Number of Traffic Lanes Crossing Railroad: **4** Smallon Crossing Angle: **60 to 90 Degree**  
 Is Highway Pavement? **Yes** Are Truck Pullout Lanes Present? **No**  
 Crossing Surface: **Timber** If Other:  
 Nearby Intersecting Highway? **Less than 75 feet** Is it Signalized? **0**  
 Does Track Run Down a Street? **No** Is Crossing Illuminated? **0**  
 Is Commercial Power? **Yes**

**Part V: Highway Information**

Highway System: **Non-Federal** Functional Classification of Road at Crossing: **Urban Local**  
 Is Crossing on State Highway System: **No**  
 Annual Average Daily Traffic (AADT): **893725** AADT Year: **1988**  
 Estimated Percent Trains: **10** Avg. No of School Buses per Day: **0**  
 Posted Highway Speed: **0**



**U.S. DOT - CROSSING INVENTORY INFORMATION**  
**AS OF 1/29/2009**

Crossing No.: 254903M      Update Request: **Changed Crossing**      Effective Begin/Date of Record: 12/02/08  
 Railroad: DRG Denver & Rio Grande Western RR Co. [DRGW]      End-Date of Record: 07/14/04

Infilling Agency State: **WY**      Type and Position: **Public At Grade**

**Part I Location and Classification of Crossing**

Division: **UTAH**      State: **UT**  
 Subdivision: **6**      County: **UTAH**  
 Branch or Line Name: **MAINLINE**      City: **NEAR OREM**  
 Railroad Milepost: **0708.70**      Street or Road Name: **4600NORTH**  
 Railroad I.D. No.:      Highway Type & No.:  
 Nearest RR Timetable Str: **GENEVA**      HSR Controllr ID:  
 Crossing Owner:      County Map Ref. No.: **25-3-11**  
 Crossing Name: **46-2940010**      Longitude: **-111.7391010**  
 ENS Sign Installed:      Lat/Long Source:  
 Passenger Service:      Quiet Zone:  
 Avg Passenger Train Count: **0**  
 Adjacent Crossing with  
 Separate Number:

**Private Crossing Information:**

Category:      Public Access:      Specify Signal:  
 STIRR A      STIRR B      STIRR C      STIRR D  
 Railroad Use:      State Contact:  
 State Use:      Railroad Contact:  
 Narrative:      State Contact:

**Part II Railroad Information**

Number of Daily Train Movements:      Less Than One Movement Per Day: **No**  
 Total Trains: **20**      Day Train: **10**  
 Typical Speed Range Over Crossing: From **45** to **60** mph      Maximum Time Table Speed: **70**  
 Type and Number of Tracks: Main: **1**      Other: **1**      Specify: **SWITCHING**  
 Does Another RR Operate a Separate Track at Crossing?      No  
 Does Another RR Operate Over Your Track at Crossing?      No

**U.S. DOT - CROSSING INVENTORY INFORMATION**  
**Continued**

Crossing 254903N      Effective Begin/Date of Record: 12/02/08  
 End-Date of Record: 07/14/04

**Part III: Traffic Control Device Information**

Signs:  
 Crossbucks: **0**      Highway Stop Signs: **0**  
 Advanced Warning: **Yes**      Hiamp Crossing Sign: **0**  
 Pavement Markings: **No Markings**      Other Signs: **0**      Specify:  
 Train Activated Devices:  
 Gates: **2**  
 Mast Mounted FL: **2**  
 Cantilevered FL (Over): **0**  
 Other Flashing Lights: **0**  
 Highway Traffic Signals: **0**  
 Other Train Activated Warning Devices:  
 Channelization: **Yes**  
 Track Equipment with Train Stoppers: **Yes**  
 4 Quad or Full Barrier: **0**  
 Total Number FL Poles: **0**  
 Cantilevered FL (Not over): **0**  
 Specify Other Flashing Lights:  
 Wiprags: **0**  
 Special Warning Devices Not Train Activated: **1**  
 Type of Train Detector: **DC/AFS**  
 Traffic Light Intermittence/Promotion:

**Part IV: Physical Characteristics**

Type of Development: **Industrial**  
 Number of Traffic Lanes Crossing Railroad: **2**  
 Is Highway Paved? **Yes**  
 Crossing Surface: **Timber**  
 Nearby Intersecting Highway? **Less than 75 feet**  
 Does Track Run Down a Street? **No**  
 Is Commercial Power **Yes**  
 Smallwood Crossing Angle: **60 to 69 Degrees**  
 Are Truck Pullout Lanes Present? **No**  
 If Other:  
 Is it Signalized?  
 Is Crossing Illuminated?

**Part V: Highway Information**

Highway System: **Non-Federal/aid**  
 Is Crossing on State Highway System: **No**  
 Annual Average Daily Traffic (AADT): **60725**  
 Estimated Percent Trucks: **10**  
 Posted Highway Speed: **0**  
 Functional Classification of Road at Crossing: **Urban Local**  
 AADT Year: **1988**  
 Avg. No. of School Buses per Day: **0**

**U.S. DOT - CROSSING INVENTORY INFORMATION**  
AS OF 1/29/2009

Crossing No.: 264903W Update Reason: New Crossing Effective Begin-Date of Record: 01/01/70  
 Railroad: DR9 Denver & Rio Grande Western RR Co. (DRGW) End-Date of Record: 12/01/88

Including Agency Original Type and Position: Public At Grade

**Part I: Location and Classification of Crossing**

Division: UTAH State: UT  
 Subdivision: 6 County: UTAH  
 Branch or Line Name: MAINLINE City: Near CREM  
 Railroad Milepost: 0708.19 Street or Road Name: 4000NORTH  
 Railroad ID. No.: GENEVA Highway Type & No.: 26-3-11  
 Nearest RR Timetable Site: GENEVA HSR Corridor ID:  
 Parent Railroad: County Map Ref. No.:  
 Crossing Owner: Latitude:  
 ENS Sign Installed: Longitude:  
 Passenger Service: Lat/Long Source:  
 Avg Passenger Train Count: 0 Quiet Zone:  
 Adjacent Crossing with Same Mile Number:

**Private Crossing Information:**

Category: Public Access: Specify Signal: State Contact:  
 Specify Signal: STIRR A STIRR B STIRR C STIRR D  
 Railroad Uses: STIRR A STIRR B STIRR C STIRR D  
 State User:  
 Narrative:  
 Emergency Contact: Railroad Contact: State Contact:

**Part II Railroad Information**

Number of Daily Train Movements:  
 Total Trains: 20 Total Switching: 0 Loss Than One Movement Per Day: No  
 Typical Speed Range Over Crossing: From 45 to 50 mph Maximum Time Table Speed: 70  
 Type and Number of Tracks: Main: 1 Other: 1 Specify: SWITCHING  
 Does Another RR Operate a Separate Track at Crossing? No  
 Does Another RR Operate Over Your Track at Crossing? No

**U.S. DOT - CROSSING INVENTORY INFORMATION**  
Continued

Crossing 254902W Effective Begin-Date of Record: 01/01/70  
 End-Date of Record: 12/01/88

**Part III: Traffic Control Device Information**

Signs:  
 Crossbuck: 0 Highway Stop Sign: 0  
 Advanced Warning: No No Crossing Sign: 0  
 Pavement Markings: No Markings Other Sign: 0 Specify:  
 Train Activated Device:  
 Gates: 2 4 Quad or Full Barrier:  
 Mast Mounted FL: 2 Total Number FL Pairs: 0  
 Cantilevered FL (Over): 0 Cantilevered FL (Not over): 0  
 Other Flashing Light: 0 Specify Other Flashing Light:  
 Highway Traffic Signal: 0 Wings: 0 Bolt: 1  
 Other Train Activated Warning Device: Not Train Activated:  
 Channalization: Yes  
 Track Equipped with Train Signal? Yes  
 Type of Train Detection: DC/AFD  
 Traffic Light Interchange/Premiation:

**Part IV: Physical Characteristics**

Type of Development: Industrial  
 Number of Traffic Lanes Crossing Railroad: 2  
 Is Highway Paved? Yes  
 Crossing Surface: Timber  
 Nearest Intersecting Highway? Less than 75 feet  
 Does Track Run Down a Street? No  
 Is Commercial Power? Yes  
 Shallow Crossing Angle: 60 to 90 Degrees  
 Are Truck Pullout Lanes Present? No  
 If Other:  
 Is It Signalized?  
 Is Crossing Illuminated?

**Part V: Highway Information**

Highway System: Non-Federal-aid  
 Is Crossing on State Highway System: No  
 Annual Average Daily Traffic (AADT): 007720  
 Estimated Percent Trucks: 10  
 Pooled Highway Speed: 0  
 Functional Classification of Road at Crossing: Urban Local  
 AADT Year:  
 Avg. No of School Buses per Day: 0

# EXHIBIT D

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, Trus- )  
tees 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

Case No. 2710

- 2 -

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 1650 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 3280 feet, on Section line between Sec. 27 and 34, Twp. 6 South, R. 2 E., Utah County at a point 1850 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 1625 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 550 feet north from the southwest corner of said Sec. 16.

A 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

Case 2710

From  
DEPT. MENT

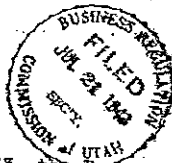
DATE: July 20, 1943

DIVISION Inspection  
To  
DEPARTMENT Public Service Commission

FILE:

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:

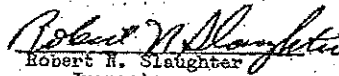
On July 16, 1943, the Denver and Rio Grande Western Railroad Company filed an application with the Public Service Commission requesting permission to construct a second main line track parallel to their present main line track in Utah County between mile post 708 plus 3,136 feet and mile post 708 plus 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.

- 2 -

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,

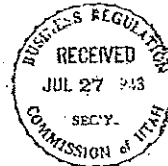
  
Robert H. Slaughter  
Inspector

COMMISSIONERS  
R. A. HOFFMAN  
W. J. JENSEN  
S. W. CLAY  
C. A. GRANT, COUNTY CLERK  
FRANK H. HADLEY,  
County Surveyor



FRANK E. WELLS, Mayor  
FRANK J. HENNING, Treasurer  
EDWIN R. TAYLOR, Auditor  
LAWRENCE W. STROUD, Assessor  
WALTER C. HARRIS, Recorder  
LARRY D. GREEN, Sheriff

**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. 703 + 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 + 1205'. 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 + 2280'. 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 + 855' 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/bcb



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 designated as Wallis.

AMENDED APPLICATION

Case 2714

Genes now the Union Pacific Railroad Company and respectfully 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, passengers, baggage and express.

2. That in the vicinity of the town of Geneva, Utah, Antoine L. Banker and E. Gazlyla Banker, a copartnership doing business under the name and style of Banker Farms, own and operate a feed mill known as the Banker Feed Mill; that said copartnership receives shipments of grain from Utah and western points, including the soy-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 hereinbefore 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 business; 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 35 ft. perpendicularly distant easterly from the center line of the U.P. R.R. Co.'s