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UTAH PUBLIC  
SERVICE COMMISSION

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**PUBLIC SERVICE COMMISSION RECEIVED**

**Re:**

**Petition of Anderson Geneva, LLC and Ice Castle Retirement Fund L.L.C.  
adverse to Union Pacific Railroad**

CERTIFICATE OF SERVICE


This will certify that the attached is a true and correct copy of the Petition dated February 12, 2009, and deposited in the U.S. Mail, postage prepaid and addressed to the Public Service Commission on February 16, 2009; and that a true and correct copy of said Petition was served on the 19<sup>th</sup> day of February, 2009, via U.S. Mail, postage prepaid and addressed as follows:

Union Pacific Railroad  
1416 Dodge Street – MC 10049  
Omaha, NE 68179

Jim Marshall  
Union Pacific Railroad  
280 South 400 West, Ste 250  
Salt Lake City, UT 84101-1887

\*CT Corporation System  
136 E. South Temple, Suite 2100  
Salt Lake City, UT 84111

DATED this 19<sup>th</sup> day of February, 2009.

  
\_\_\_\_\_  
Dennis M. Astill

# Anderson Geneva Development Inc.

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

February 12, 2009

Attn: Ted Boyer, Chairman  
UTAH PUBLIC SERVICE COMMISSION  
Heber M. Wells Building  
160 East 300 South  
Salt Lake City, UT 84114

RE: Petition for Relief Against Unlawful Actions of Union Pacific Railroad Co.

Dear Mr. Boyer:

The Petitioners hereunder are Anderson Geneva, LLC, and Ice Castle Retirement Fund, L.L.C., and Anderson Geneva Development, Inc., owners and managers of the property which was the former Geneva Steel manufacturing plant located in Vineyard, Utah (herein "Owners") and Vineyard Town. The land was formerly owned and operated as the Geneva Steel manufacturing plant and is comprised of approximately 1700 acres located in Vineyard Town, Utah.

The bases for this Petition are the unlawful actions of the Union Pacific Railroad Company ("Union Pacific") in regard to a public at grade railroad crossing located at 400 North and Vineyard Road, in Vineyard Town, Utah (the "400 North Crossing").

That actions complained of are as follows:

1. On information and belief, Union Pacific has provided inaccurate and incomplete information to Utah Department of Transportation ("UDOT") and to Utah Transit Authority ("UTA"), for the purpose of influencing those agencies and obtain the closure of the 400 North Crossing.
2. On information and belief, Union Pacific has provided or is in the process of providing information to the U.S. DOT Crossing Inventory of Information to change the designation of the 400 North Crossing to a private at grade crossing.
3. Union Pacific recently (January 28, 2009) advised Owners of its intent to close the 400 North Crossing and remove all of the crossing improvements and safety improvements for the crossing.

4. Union Pacific has further advised Owners that the UTA Frontrunner South construction activity is the ostensible reason for its immediate action to close the 400 North Crossing.

5. Closure of the 400 North Crossing will cause immediate and irreparable harm to Owners and to Vineyard Town, in that (a) it will remove public road improvements already existing, without authorization; (b) it will destroy safety improvements at the crossing which are extremely expensive to install; (c) it will eliminate public road access to the Geneva Property which is vital to its use and development; (d) it will eliminate public road access to a planned through-road for Vineyard Town which is vital to future use and development of lands west of the 400 North Crossing; (e) it will eliminate emergency access through the Geneva Property in an area of Vineyard Town where it is more than three miles between railroad crossings; and (f) the elimination of the 400 North Crossing is not essential to any activities of Union Pacific, and is only important to UTA in order to save money in construction of the Frontrunner South. Officials of UTA have stated that if the 400 North Crossing is in fact a public at grade crossing, it will not jeopardize the construction of the rail service and it will not substantially impact the project.

6. Vineyard Town owns and maintains Vineyard Road and the public road which extends over the 400 North Crossing.

7. Owners own the Geneva Property adjacent to the public road at the 400 North Crossing and have continuously used the crossing as a public at grade crossing without obstruction or hindrance since acquiring the land on December 23, 2005.

8. On information and belief, the 400 North Crossing was continuously used since 1942 for access to the Geneva Property by the predecessors in interest of Owners as a public at grade crossing, without obstruction or hindrance.

9. On information and belief, the 400 North Crossing was continuously used as a public at grade crossing by the public in general, without objection or hindrance from a date earlier than 1922, through and including 1942, when the Geneva Property was acquired by the United States Government for the construction of a steel plant.

10. The public road which extends through the 400 North Crossing to the edge of the Geneva Property has never been abandoned by any public agency or municipality which owned or maintained the public roadway.

11. The 400 North Crossing is paved, and is owned by Vineyard Town and provides public road access, including emergency access to, and through, the Geneva Property.

12. The 400 North Crossing currently has active crossing lights, bells, crossing arms and railroad crossing signs. Historical information indicates that public rail crossing signs existed at the property continuously since at least 1927.

13. The 400 North Crossing is the only crossing and access to and through the Geneva Property for a nearly 3 mile length of Union Pacific Railroad right of way. The crossing is a necessarily and vital public access within Vineyard Town and from the Geneva Property. The closure of the crossing will eliminate a vital emergency access and development access for Vineyard Town.

14. 400 North Street in Vineyard, Utah, is masterplanned as a primary through-road on the Vineyard Town approved Road Master Plan and the Vineyard Town General Plan map. As such the public at grade crossing is a necessary and vital part of the Vineyard Town transportation structure.

15. Vineyard Town acknowledges that 400 North Street and the railroad crossing is a public street, and under Section 72-3-104 (4) of the Utah Code, Vineyard Town exercises sole jurisdiction and control of the public roadways within the municipality.

16. No Vineyard Town official has participated in any Union Pacific investigation or analysis of any railroad crossing within the town's boundaries.

17. The 400 North Crossing has been shown as a public crossing on the U.S. DOT Crossing Inventory of Information from the inception of this registry in January 1, 1970; to the present. The U.S. DOT Crossing Inventory continues to reflect the 400 North Crossing as a public at grade crossing as of January 29, 2009.

18. Upon information and belief, the determination of Union Pacific that the 400 North Crossing needs to be permanently closed is in violation of Utah law dealing with public convenience and necessity.

19. The determination of Union Pacific was made in violation of law and administrative rules required of Union Pacific.

20. The Commission has jurisdiction conferred by Utah Code section 54-4-1 and 54-4-15(4)(a) to receive this petition for relief.

21. The Petitioners are aggrieved by the actions of Union Pacific, and will be irreparably harmed if Union Pacific is allowed to proceed with its plans to close this crossing.

**Petitioners Request the Following Relief From the Commission:**

1. The Commission find that the 400 North Crossing is a public at grade crossing, and that public convenience and necessity demand its maintenance and protection.

2. The Commission order Union Pacific, UDOT, UTA and other affected parties to protect and maintain the 400 North Crossing as a public at grade railroad crossing.

3. The Commission order a hearing and opportunity to Petitioners to present further evidence, testimony and legal argument with regard to the status of the 400 North Crossing as a public at grade railroad crossing.

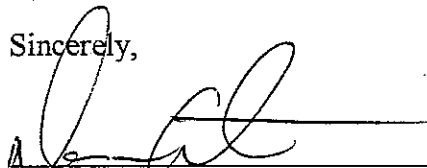
4. The Commission grant immediate injunctive relief to Petitioners, enjoining Union Pacific, UDOT, UTA or others from destroying or removing improvements from the 400 North Crossing, including road improvements, crossing safety equipment or making any changes to the present crossing until a final decision can be reached in this matter.

5. The Commission grant permanent injunctive relief to Petitioners and against Union Pacific, UDOT, UTA or others, requiring that the public crossing be maintained and improved as required to provide the public at grade access to Owners and Vineyard Town.

6. This Petition should be consolidated with the prior Petition filed by Petitioners against UDOT and UTA, dated February 4, 2009, for decision.

We encourage the Commission to contact the undersigned at its earliest convenience to establish a time for hearing, and opportunity to investigate and fully brief this matter. We are willing to meet informally to discuss this matter.

Sincerely,



Dennis Astill, General Counsel  
Anderson Geneva Development, Inc., for  
and on behalf of Owners



David L. Church, Attorney for  
Vineyard Town