

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

UTAH PUBLIC
SERVICE COMMISSION

UTAH PUBLIC
SERVICE COMMISSION

In the Matter of the Petition of Anderson
Geneva Development, Inc., et al against
Actions of Utah Department of
Transportation (UDOT) and Union Pacific
Railroad

NOTICE OF DISMISSAL OF
AGENCY ACTION AGAINST
UDOT

RECEIVED

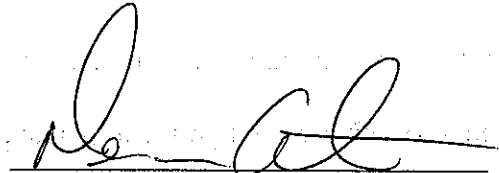
RECEIVED

Docket No.: 09-999-05

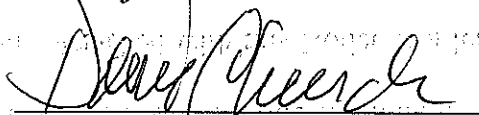
Petitioners, Anderson Geneva, LLC, Ice Castle Retirement Fund L.L.C., and Anderson Geneva Development, Inc., (the "Anderson Entities"), and Vineyard Town hereby dismiss their Petition against the Utah Department of Transportation ("UDOT") without prejudice. The basis for this dismissal is that UDOT has reversed its January 20, 2009, letter determining the status of the 400 North Crossing as described in the Petition. Attached with this Notice is a letter from UDOT, Chief Railroad Engineer, Eric Cheng, P.E., dated February 25, 2009, stating the 400 North Crossing is currently known as a public crossing and that it will not change without further determination of UDOT. Based upon that agency action, this Petition against UDOT is premature.

Notwithstanding the dismissal against UDOT, existing Petitions against Utah Transit Authority and Union Pacific Railroad will not be dismissed.

DATED this 12th day of March, 2009.



Dennis M. Astill,
Counsel for the Anderson Entities



David L. Church
Counsel for Vineyard Town



State of Utah

ION M. HUNTSMAN, JR.
Governor

GARY R. HERBERT
Lieutenant Governor

DEPARTMENT OF TRANSPORTATION

XIAN R. NIORD, P.E.
Executive Director

CARLOS M. BRACHIAN, P.E.
Deputy Director

February 25, 2009

Dennis M. Astill
Project Manager and General Counsel
Anderson Geneva Development
90 North Geneva Road
Vineyard, Utah 84057

Re: Railroad Crossing at 400 North Vineyard Road

Dear Mr. Astill:

Thank you for meeting with us and providing the information concerning this crossing on February 19, 2009. After reviewing the information, UDOT will conduct another surveillance review on this crossing based upon the crossing being public because of the FRA inventory listing this crossing as public and Resolution and Order passed by the Utah County Board of County Commissioners in 1942. At this point, UDOT considers this crossing as public unless other information is provided that demonstrates that the crossing is private. This review shall be performed in accordance with Utah Administrative Code R530-5-7. Consequently, Union Pacific Railroad, Utah Transit Authority, the Town of Vineyard and Anderson Geneva will be involved in this review with UDOT. These parties will have the opportunity to provide any documentation concerning the crossing for this review. As part of the review, a meeting will be held at the site of the railroad crossing.

If you have any further questions concerning this matter, please contact me or Renee Spooner.

Sincerely,


Eric Cheng, P.E.
UDOT Chief Railroad Engineer

Cc: Tracy Conti
Robert Hull
Dave Nazare
Renee Spooner
David Church, Vineyard Town
Randy Farnworth, Vineyard Town
Josh Sletten, HNTB

Dennis M. Astill #0140
DENNIS M. ASTILL, PC
9533 South 700 East, Suite 103
Sandy, UT 84070
Telephone: (801) 328-1400
Facsimile: (801) 328-1444

PUBLIC SERVICE COMMISSION

In the Matter of the Petition of Anderson)
Geneva Development, Inc., et al against) **CERTIFICATE OF SERVICE**
Actions of Utah Department of)
Transportation (UDOT) and Union Pacific)
Railroad) Docket No.: 09-999-05

This will certify that the attached is a true and correct copy of the NOTICE OF DISMISSAL OF AGENCY ACTION AGAINST UDOT dated March 12, 2009, was deposited in the U.S. Mail, postage prepaid and addressed to the Public Service Commission on March 12, 2009, and that a true and correct copy of said Notice of Dismissal was served on via U.S. Mail, postage prepaid and addressed as follows:

Utah Department of Transportation
Attn: John Njord, Executive Director
4501 South 2700 West
Mail Stop 141200
Salt Lake City, UT 84114-1200

Utah Department of Transportation
Attn: Andy Cushing, Attorney
4501 South 2700 West
Mail Stop 141200
Salt Lake City, UT 84114-1200


Utah Transit Authority
Attn: John English, General Manager
P. O. Box 30810
3600 South 700 West
Salt Lake City, UT 84130

Utah Transit Authority
Attn: Bruce Jones, General Counsel
3600 South 700 West
Salt Lake City, UT 84130

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

DATED this 12th day of March, 2009.



Dennis M. Astill