

C. D. No. 32368-3

Recorded FEB 23 1976 at 9:25 AM
Request of E. D. Hansen Trustee
KATIE L. DIXON, Clerk Acct
Salt Lake County, Utah
\$15.20 By *[Signature]* Deputy
Russell Peterson

REF. 600 UNION PACIFIC Bldg
84101

2787725

C O N T R A C T

L. D. No. 22700

Audit No. _____

Between

LOS ANGELES & SALT LAKE RAILROAD COMPANY
UNION PACIFIC RAILROAD COMPANY

and

JOHNSON READY MIX COMPANY, INC.
EVAN HANSEN
O. V. HANSEN

Covering

Private Road Crossing

Near

Mount, Utah
(M.P. 776.28)

BOOK 4112 PAGE 261

ROAD CROSSING AGREEMENT

THIS AGREEMENT, made and entered into ^{as of the} this 10 day of September 1973, by and between LOS ANGELES & SALT LAKE

RAILROAD COMPANY, a corporation of the State of Utah, and its Lessee, UNION PACIFIC RAILROAD COMPANY, a corporation of the State of Utah, (hereinafter collectively called "Railroad Company"), parties of the first part and JOHNSON READY MIX COMPANY, INC., a corporation of the State of Utah, and EVAN HANSEN, an individual, of Sandy, Utah, and O. V. HANSEN, an individual, of Salt Lake City, Utah,

collectively

(hereinafter called "Licensee"), party of the second part, WITNESSETH:

WHEREAS, the Licensee owns land ^{easterly} ~~on the west~~ side of and contiguous to the right of way of the Railroad Company in the vicinity of M.P. 776.28, near Mount, Salt Lake County, Utah,

WHEREAS, the Licensee, in order to provide convenient access ~~between~~ to said property from a public highway on the west side of the right of way desires the right to construct, or have constructed and thereafter to maintain and use a private roadway (hereinafter called "roadway"), across the right of way and track of the Railroad Company along a line intersecting the center line of the main track ~~XXXX~~

at right angles thereto at Engineer's Station 1253 + 00, which is 120 feet northerly, measured along said center line, from its intersection with the West line of Section 13, T 4 S, R 1 E, Salt Lake Meridian, substantially in the location shown in yellow on the attached print, dated June 15, 1973, marked Exhibit "A," and hereby made a part hereof.

WHEREAS, the Railroad Company is willing that such a roadway be provided in the location aforesaid, for the use of the Licensee, subject to the stipulations, conditions and agreements hereinafter contained:

IT IS, THEREFORE, AGREED by and between the parties hereto as follows, to wit:

1. RAILROAD COMPANY GRANTS RIGHT TO LICENSEE:

The Railroad Company hereby grants unto the Licensee the right to construct, or have constructed, and thereafter during the term hereof, to maintain and use said roadway in the location hereinbefore described, which grant is made expressly subject to the observance and performance by the Licensee of all and singular the conditions, covenants and agreements hereinafter contained to be by the Licensee kept, observed and performed; it being hereby stipulated that a waiver by the Railroad Company of any

8. ROADWAY NOT TO BE USED BY PUBLIC:

The Licensee shall not permit said roadway to be used by the public, or by any person or persons except the Licensee and the family, tenants, and employes of the Licensee, it being expressly stipulated that said roadway is a private one and not intended for public use.

~~9. LICENSEE TO KEEP GATES CLOSED~~

~~The Licensee shall keep gates closed except when necessary for the use of said roadway in accordance with the terms of this agreement.~~

10. LICENSEE LIABLE FOR INJURY TO LIVE STOCK:

The Licensee shall indemnify and hold harmless the Railroad Company from and against any and all injury, damage, loss, costs and expenses of whatsoever nature which the Licensee, the Railroad Company, and/or any person or persons may suffer or sustain by reason of the entry of live stock, whether belonging to the Licensee or others, upon the right of way of the Railroad Company ~~through said roadway~~ at said Crossing ~~thereon~~ and from any and all judgments which any person or persons may recover from the Railroad Company by reason of any such injury, damage or loss.

11. LIABILITY:

The Licensee shall further indemnify and hold harmless the Railroad Company from and against any and all damages, claims, demands, actions, causes of action, costs and expenses of whatsoever nature which may result from any injury to or the death of any person whomsoever, or from loss of or damage to property of any kind or nature, including damage to the roadbed, tracks, equipment or other property of the Railroad Company, when such injury, death, loss or damage is due in any way to the existence of said roadway, or to the construction, maintenance, repair, renewal, removal or use thereof, PROVIDED, however, that the Licensee shall not be held liable under the provisions of this section, for any injury, death, loss or damage which is directly due to the performance of any of the work contemplated hereunder when such work is performed by the Railroad Company.

12. TERMINATION:

If the Licensee shall fail, neglect or refuse to keep, observe and perform any or all of the conditions, covenants, and agreements herein contained on the part of the Licensee to be kept, observed and performed, the Railroad Company may at its option terminate this agreement by giving to the Licensee thirty (30) days' notice in writing of its intention so to do, and at the expiration of said notice this agreement shall become null and void and of no further force and effect between the parties hereto.

In the event of the termination of this agreement as herein provided, the Licensee shall be without recourse or redress of any character against the Railroad Company by reason thereof, and such termination shall in no manner prejudice or impair any right of action for damages or otherwise that the Railroad Company may have against the Licensee.

13. EFFECTIVE DATE:

This agreement shall take effect upon the day and date first herein written, and shall continue in full force and effect until terminated as provided, it being understood,

however, that should the Licensee enter upon, or perform any work upon the right of way prior to said effective date, the terms of this agreement shall apply thereto. All of the covenants, conditions and agreements herein expressed on the part of the Licensee to be kept, observed and performed, shall attach to and run with the said land of the Licensee.

CROSSING

14. LICENSEE TO KEEP ~~XXXXXXXXXX~~ CLEAN:

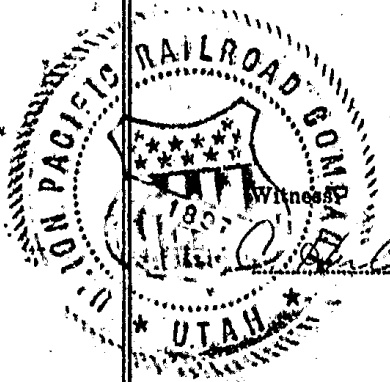
The Licensee shall keep ~~the highways~~ said crossing clean and free from dirt, gravel or other debris which might interfere with the safe operation of trains, engines or cars thereover by the Railroad Company.

15. SUCCESSORS AND ASSIGNS:

This agreement shall be binding upon and inure to the benefit of the Railroad Company and its successors and assigns, the Licensee, and the successors in interest of the Licensee.

16. There is attached hereto and hereby made a part hereof copy of a letter dated September 6, 1973, addressed by Mr. Robert N. Weatherbee, an attorney for the Railroad Company, to Mr. Evan Hansen and Mr. O. V. Hansen concerning use of the crossing provided for herein. This letter was sent U.S. Certified Mail, return receipt requested. Receipt thereof by Messrs. Evan and O. V. Hansen was acknowledged on September 10, 1973, and said Evan and O. V. Hansen hereby agree to be bound by and to observe the provisions of said letter.

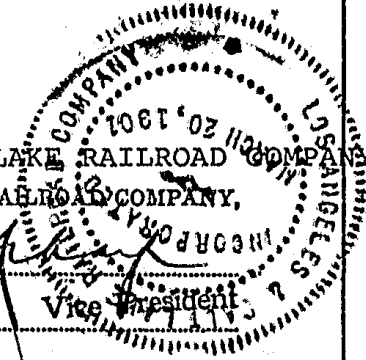
IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed in duplicate on the day and year first above written.



LOS ANGELES & SALT LAKE RAILROAD COMPANY
UNION PACIFIC RAILROAD COMPANY,

By

[Signature]
Vice President



JOHNSON READY-MIX COMPANY, INC

By

[Signature]
Vice President

Attest:

[Signature]
Secretary

Witness:

[Signature]

[Signature]

Evan Hansen

O. V. Hansen

STATE OF NEBRASKA)
County of Douglas) SS

On the 29th day of August, 1975, before me, a Notary Public in and for said County, personally appeared C. E. Schaefer, to me personally known to be the Vice President of LOS ANGELES & SALT LAKE RAILROAD COMPANY and UNION PACIFIC RAILROAD COMPANY, who, being duly sworn, did say that the seals affixed to the foregoing instrument are the corporate seals of said corporations and that said instrument was signed, sealed and executed in behalf of said corporations by authority duly conferred by their By-Laws, and acknowledged to me said instrument to be the free act and deed of said corporations.

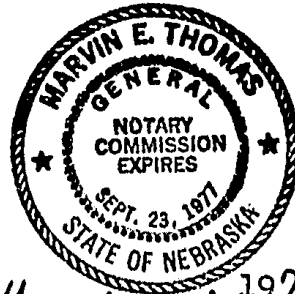
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first in this, my certificate, written.

Marvin E. Thomas
Notary Public

My Commission Expires:

Residing at ^{near} OMAHA, NEBRASKA 68179

September 23, 1977



STATE OF UTAH)
County of Salt Lake) SS

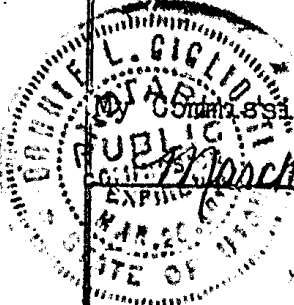
On the 1st day of May, 1974, before me, a Notary Public, personally appeared Arnold C. Van Rosendaal, to me personally known to be the President of JOHNSON READY MIX COMPANY, INC., who, being duly sworn, did say that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed, sealed and executed in behalf of said corporation by authority duly conferred according to law, and acknowledged to me said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first in this, my certificate, written.

Somme D. Gugliotti
Notary Public

Residing at Salt Lake City, Ut.

Commission Expires:



March 26, 1977

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STATE OF UTAH,)
) ss.
County of Salt Lake.)

I, _____, a Notary Public,
do hereby certify that EVAN HANSEN, personally known to me
to be the same person whose name is subscribed to the fore-
going instrument, appeared before me this day in person and
acknowledged that he signed, sealed and delivered said
instrument, as his free and voluntary act for the uses and
purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and
affixed my official seal the day and year first in this, my
certificate, written.

Notary Public

Residing at _____

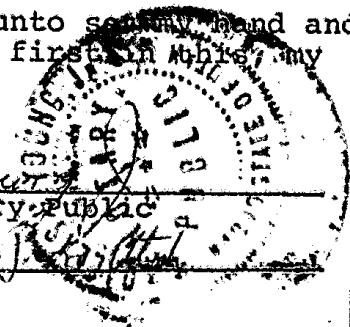
STATE OF UTAH,)
) ss.
County of ~~Salt Lake~~ ^{UTAH}.)

I, Walter H. Perry, a Notary Public,
do hereby certify that O. V. HANSEN, personally known to me
to be the same person whose name is subscribed to the fore-
going instrument, appeared before me this day in person and
acknowledged that they signed, sealed and delivered said
instrument, as his free and voluntary act for the uses and
purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and
affixed my official seal the day and year first in this, my
certificate, written.

Walter H. Perry
Notary Public

Residing at _____



APPROVED

J. B. Marshall

SUPT. UTAH DIV.

Genl. Solicitor
APPROVED
APPROVED AS TO: FORM EXECUTION
Genl. Solicitor

APPROVED

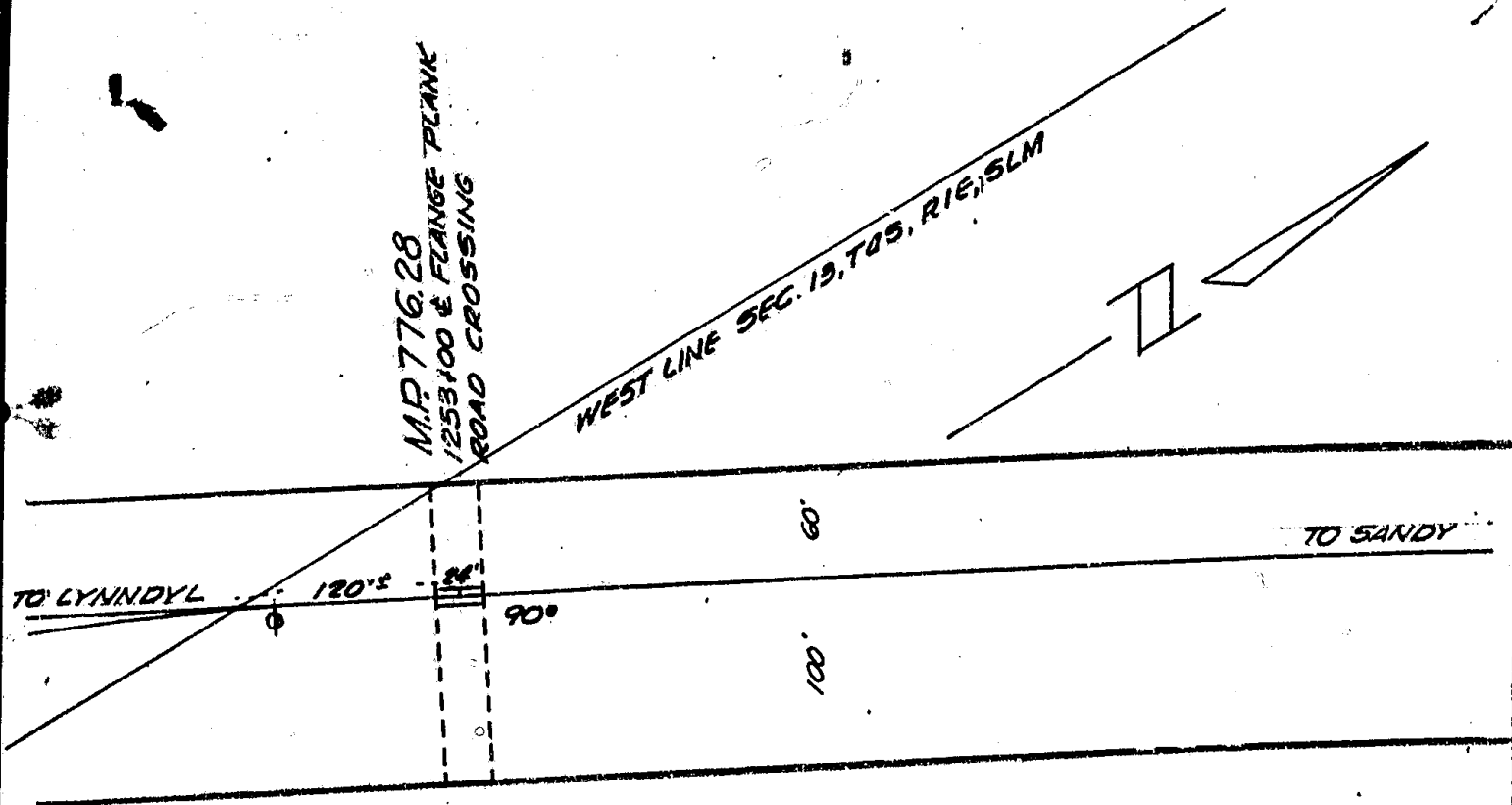
J. B. Marshall
GENERAL MANAGER

General Contract Counsel

J. B. Marshall

Approved as to execution:

100-1112



BOOK 4112 PAGE 269

EXHIBIT "A"
LOS ANGELES & SALT LAKE RAILROAD CO.
Union Pacific Railroad Co. (Lessee)
M.P. 776.28 near Mount, Utah

To accompany agreement with
 Johnson Ready Mix Company, Inc.
 and Evan Hansen, Inc.
 covering 24 ft. flange plank road
 crossing.

UTAH DIVISION NO. 10,202
 Scale: 1" = 100'
 Office of Division Engineer
 Salt Lake City, Utah 6-15-73

L E G E N D

Road crossing shown.....Yellow
 RR R/W shown outlined.....Red

UNION PACIFIC RAILROAD COMPANY

TRANSPORTATION DIVISION
LAW DEPARTMENT

²¹⁸⁰¹
LD 21081 and LD 21921
10 SOUTH MAIN STREET
SALT LAKE CITY, UTAH 84101

S. M. MATHESON
GENERAL SOLICITOR
D. A. BYBEE
GENERAL ATTORNEY
N. W. KETTNER
S. A. GOODSSELL
J. C. WILLIAMS
ASSISTANT GENERAL ATTORNEYS

September 6, 1973

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Evan Hansen
1815 East Creek Road
Sandy, Utah 84071

Mr. O. V. Hansen
2375 Walker Lane
Salt Lake City, Utah.

Re: Private Crossings located at MP 775.76
and MP 776.28, Provo Subdivision, Union
Pacific Railroad Company --

Dear Messrs. Hansen:

On February 9, 1971, you executed a private crossing agreement with the Union Pacific Railroad Company (hereinafter Railroad) covering a private crossing at Mount, Utah, at MP 775.76 on the mainline of the Railroad's Provo Subdivision. On June 29, 1973, you made application to the Railroad to secure a private crossing agreement covering a private crossing at MP 776.28 at Mount, Utah, on the mainline of the Railroad's Provo Subdivision:

Paragraph 8 of your agreement with the Railroad of February 9, 1971, provides as follows:

"ROADWAY NOT TO BE USED BY PUBLIC:
"The Licensee shall not permit said roadway to be used by the public, or by any person or persons except the Licensee and the family, tenants, and employes of the Licensee, it being expressly stipulated that said roadway is a private one and not intended for public use."

Paragraph 9 of that same agreement provides as follows:

LD-21801
CD-32368-2
AUDIT 117658

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Mr. Evan Hansen
Mr. O. V. Hansen
Page Two
September 6, 1973

"9. LICENSEE TO KEEP GATES CLOSED:

"The Licensee shall at all times keep gates closed except when opened to permit the use of said roadway in accordance with the terms of this agreement."

Paragraph 11 of said agreement further provides as follows:

"11. LIABILITY:

"The Licensee shall further indemnify and hold harmless the Railroad Company from and against any and all damages, claims, demands, actions, causes of action, costs and expenses of whatsoever nature which may result from any injury to or the death of any person whomsoever, or from loss of or damage to property of any kind or nature, including damage to the roadbed, tracks, equipment or other property of the Railroad Company, when such injury, death, loss or damage is due in any way to the existence of said roadway"

Paragraph 12 of said agreement also provides as follows:

"12. TERMINATION:

"If the Licensee shall fail, neglect or refuse to keep, observe and perform any or all of the conditions, covenants and agreements herein contained on the part of the Licensee to be kept, observed and performed, the Railroad Company may at its option terminate this agreement by giving the Licensee thirty (30) days' notice in writing of its intention so to do, and at the expiration of said notice this agreement shall become null and void and of no further force and effect between the parties hereto.

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Mr. Evan Hansen
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Page Three
September 6, 1973

"In the event of the termination of this agreement as herein provided, the Licensee shall be without recourse or redress of any character against the Railroad Company by reason thereof, and such termination shall in no manner prejudice or impair any right of action for damages or otherwise that the Railroad Company may have against the Licensee."

During the past several months it has come to the Railroad's attention that you have on two occasions leased your property lying to the east of these tracks at these two private crossing locations to one Terry Larson for the purpose of conducting a "rock" concert. Several thousands of people attended both of these concerts and in the process thereof utilized both of the above-mentioned and described private crossings. In addition hundreds of people on both occasions parked their vehicles on the Railroad's right of way and in extremely cross proximity to the Railroad's track. The use of the Railroad's right of way and the private crossings in question by the people attending these concerts constitutes both an extremely hazardous safety situation and a violation of the foregoing quoted provisions of your private crossing agreement with the Railroad dated February 9, 1971.

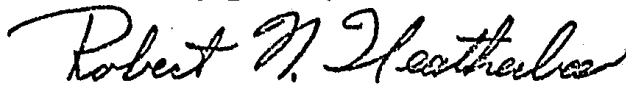
On September 6, 1973, I discussed this matter with Mr. Evan Hansen over the telephone, and he represented to me at that time that no further "rock" concerts of any kind were contemplated or would be held at the location in question and that you both intended to comply with all of the terms, covenants, conditions and provisions of your private crossing agreement with the Railroad dated February 9, 1971. The purpose of this letter is to secure written acknowledgment and confirmation from both of you that no further "rock" concerts of any kind will be held at the location in question, that you do intend to comply with all of the terms, conditions, covenants and provisions contained

Mr. Evan Hansen
Mr. O. V. Hansen
Page Four
September 6, 1973

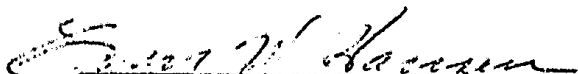
in your private crossing agreement executed between you and the Railroad on February 9, 1971, and in particular those terms, conditions, covenants, provisions set forth above in this letter, and that you further understand and agree to abide by and be bound by the quoted terms, conditions and provisions of your agreement with the Railroad of February 9, 1971, that are set forth above in reference to your use of the private crossing at MP 776.28 at Mount, Utah, on the mainline of the Railroad's Provo Subdivision, during the pendency of your application for a private crossing agreement covering that crossing. To signify your acknowledgment, confirmation, understanding, acceptance and agreement to and of these facts, representations and conditions, please sign this letter in the places indicated below and return it to me within five days of your receipt hereof.

If you have any questions concerning this matter, please do not hesitate to call me.

Sincerely yours,


Robert N. Weatherbee

RNW/L


Evan Hansen


O. V. Hansen