



BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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THE PUBLIC UTILITIES COMMISSION
2007 JUN 26 PM 2:25

THE MATTER OF THE APPLICATION OF DAWN)	DOCKET NO. 06A-526R
FOOD PRODUCTS, INC. OF DENVER, COLORADO,)	
FOR AN ORDER AUTHORIZING A VARIANCE)	STIPULATION AND
FROM PUC REGULATIONS GOVERNING SIDE)	SETTLEMENT
CLEARANCES FROM CENTER OF TRACK TO A)	AGREEMENT
SIDE OBSTRUCTION)	
-----)	

Dawn Food Products, Applicant herein, and Union Pacific Railroad Company, Intervenor herein, hereby enter into this Stipulation and Settlement Agreement and in consideration of all of the terms and conditions set forth herein, hereby agree and stipulate as follows:

1. This case was filed on September 18, 2006 by Dawn Food Products to seek a permanent variance of the PUC rule related to side clearances to allow a side clearance of 8'1", rather than the required 8'6" and to achieve a variance of the horizontal clearance requirements to allow a horizontal clearance of 7' 2 1/4", rather than the required clearance of 8' -1".
2. Union Pacific filed an intervention in this case on October 26, 2006 on the grounds that the clearance variances requested do not meet Union Pacific requirements.
3. Union Pacific representatives have met on site with Mr. Young of Dawn Foods. Mr. Young has proposed a compromise that would revise the location of the three lighted "restricted clearance" signs. The attached Exhibit "A" is the letter from Mr. Young, along with two pages of drawings that illustrate the clearances and the location of the various signs.
4. Union Pacific has no objection to the granting of the variances so long as the requirements and placement shown in the three pages of Exhibit A are followed.
5. Dawn Foods, by this stipulation agrees to abide by the requirements of Exhibit A.
6. Dawn Foods and Union Pacific hereby request that the Commission enter an order approving the variance request as modified by the terms of this stipulation.
7. This Stipulation shall not become effective until the Commission issues an order approving the Stipulation, which order does not contain any modification of the terms and conditions of this Stipulation that is unacceptable to either of the parties to the Stipulation. In the event the Commission modifies this Stipulation in a manner unacceptable to either party hereto, that party may withdraw from the Stipulation and shall notify the Commission and the other party to the Stipulation in writing within ten (10) days of the date of the final Commission order. In the event a party exercises

its right to withdraw from the Stipulation, the Stipulation shall be null and void and have no effect.


8. In the event this Stipulation becomes null and void, or in the event the Commission does not approve this Stipulation, this Stipulation as well as the negotiations undertaken in conjunction with this Stipulation shall not be admissible into evidence in any proceeding.
9. The parties state that they have reached this Stipulation by means of a negotiated process that is in the public interest and that the results reflected in this Stipulation are just, reasonable and in the public interest.
10. This Stipulation may be executed in separate counterparts, including facsimile. The counterparts taken together shall constitute the Stipulation. The parties represent that the signatories to this Stipulation shall have full authority to bind their respective parties to the terms of this Stipulation.
11. The Stipulation shall be governed by and construed in accordance with the laws of the State of Colorado.

DATED at Denver, Colorado, this 22 day of June, 2007.

DAWN FOOD PRODUCTS, INC.

UNION PACIFIC RAILROAD COMPANY


BY: LON PETERSON
Vice-President of Ingredient Mfg.
DAWN FOOD PRODUCTS, INC.
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May 30, 2007

Engineering, Union Pacific
Manager of Industrial and
Public Projects
1400 West 52nd Avenue
Denver, Colorado 80221

Re: PUC Docket No. 06A-526R
Dawn Food Product's Request for Variance

Dear Sir:

This letter is transmitting the drawings referred to in Kathleen M. Snead's Second Status Report filed by the Intervenor, Union Pacific, dated May 1, 2007. The drawings illustrate the changes made as agreed to at the meeting on site on May 1, 2007, among Tom Young representing Dawn Food Products, and John Rourke and Neil Scott representing Union Pacific. The plan drawing shows the revised location of the three lighted "restricted clearance" signs. The drawing with the three cross-sections shows the side clearances in elevation where the side clearance is under the existing Union Pacific and/or Public Utilities Commission regulations.

Please address any comments on the extra copy of the drawings which need to be addressed. Once Union Pacific has approved the drawings I will submit the appropriate number to the PUC and any additional copies the Union Pacific would like to have for their file or distribution.

Respectfully Submitted,

Tom Young, P.E.
Dawn Food Products

Encls: Two copies of two drawings

Cc: John Rourke w/ one set of drawings, UP

Kathleen M. Snead, Esq., UP

Pamela Fischhaber, P.E., PUC

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SUPERINTENDENT'S OFFICE
JUN 01 2007
DENVER SERVICE UNIT

Bakery success starts here.

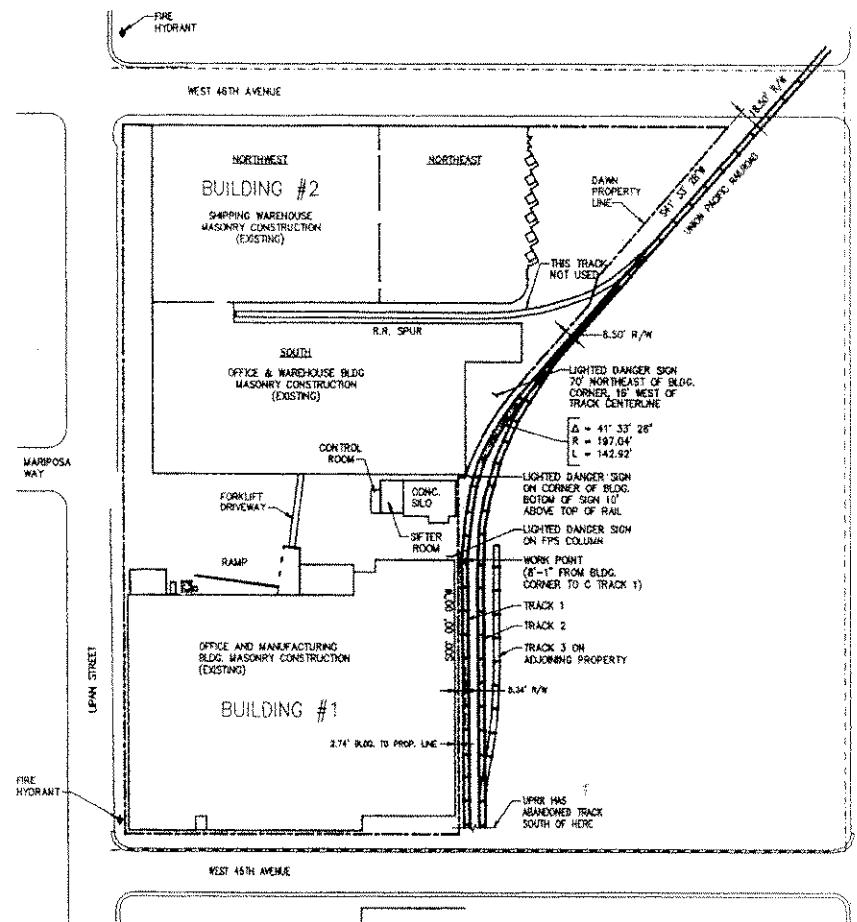


EXHIBIT

"A"

PENIGAD 800-631-6363

NOTE: ALL VERTICAL DIMENSIONS ARE FROM TOP OF RAIL.
WORKPOINT - EAST OF BUILDING CORNER 8'-1" TO @ TRACK
NORTH 2'-8" @ FALL PROTECTION SUPPORT (FPS) VSC2 OVER TRACKS 1 & 2
NORTH 22'-2" @ FPS CROSS SUPPORT BETWEEN TRACKS 1 & 2
NORTH 32'-2" END OF FPS RAIL OVER TRACK 2
NORTH 62'-8" @ FPS SUPPORT VSC3 OVER TRACK 1 ON RADIAL LINE
NORTH 75'-8" END OF FPS RAIL OVER TRACK 1 ON A RADIAL LINE
SOUTH 6'-6" LIGHT FIXTURE ON DAWN BUILDING, 14'-10" TO BOTTOM
OF BOX 14'L X 12"H X 5"D.
SOUTH 15'-6" 8"DIA. EXHAUST PIPE ON DAWN BUILDING, PROJECTS 12',
11'-9" VERTICAL TO @.
SOUTH 16'-10" @ FPS CROSS SUPPORT BETWEEN TRACKS 1 & 2
SOUTH 23'-9" 8"DIA. EXHAUST PIPE ON DAWN BUILDING, PROJECT 12',
11'-9" VERTICAL TO @.
SOUTH 23'-0" HAIRPIN BRACKET TO ATTACH SHIEVE FOR CAR MOVING
WINCH, 3'-2" VERTICAL, PROJECTS 5 1/2".
SOUTH 14'-9" DOWNSPOUT 4"x5", PROJECTS 5"
SOUTH 29'-8" DOWNSPOUT 4"x5", PROJECTS 5"
SOUTH 51'-0" AND 62'-0", L2x2x1/4x2'-0", 2 EACH SIDE, BOTTOMS AT
4'-8" AND 9'-11", PROJECT 2 1/2". LOCATED ON EACH SIDE OF
PREVIOUS 10'-0" WIDE DOORWAY.
SOUTH 50'-6" AND 62'-6", AND OVER DOOR, 3 1/4"DIA BOLTS EACH SIDE
AND OVER TOP, PROJECT 2", SOME OR ALL TO BE REMOVED.
SOUTH 51'-6" TO 61'-6", DOCK SLIT MADE OF 3-2x12 FINISHED LUMBER
AND COVERED WITH SHEET METAL COVER. PROJECTS 5 1/2"
SOUTH 62'-4" @ FPS VSC1 OVER TRACK 1 PROJECTS 10-3/4" FROM
BUILDING, FROM @ TRACK 1 TO ABSTRACTION IS 7'-2 1/4",
APPLIED FOR PUC VARIANCE.
SOUTH 77'-4" END OF FPS RAIL OVER TRACK 1.



FACILITY PLAN

[illegible]

UNION PACIFIC RAILROAD COMPANY

LAW DEPARTMENT



STEVEN E. NAPPER

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*Also Member of Wyoming and Nebraska Bars

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June 26, 2007

VIA MAIL AND E-MAIL

Doug Dean, Executive Director
Public Utilities Commission
1560 Broadway, Suite 250
Denver, CO 80202

RE: Docket No. 06A-526R THE MATTER OF THE APPLICATION OF DAWN FOOD PRODUCTS, INC. OF DENVER, COLORADO, FOR AN ORDER AUTHORIZING A VARIANCE FROM PUC REGULATIONS GOVERNING SIDE CLEARANCES FROM CENTER OF TRACK TO A SIDE OBSTRUCTION

Dear Mr. Dean:

Enclosed please find an original and five (5) copies of the Stipulation and Settlement Agreement between Dawn Food Products, Inc, and Union Pacific Railroad Company in the above – captioned docket.

If you have any questions or concerns, please contact me.

Very truly yours,

A handwritten signature in cursive script that reads "Sharon".

Sharon Forster Russell
Senior Legal Assistant

sfr

enclosures