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## Santa Ana Regional Water Quality Control Board

December 30, 2013

Steve L. Cheney  
Union Pacific Railroad  
1400 Douglas St., Stop 0910  
Omaha, NE 68179

**CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS  
CERTIFICATION FOR THE UNION PACIFIC RAILROAD BREA CHEMICAL LEAD  
MP 503.99 CULVERT REPLACEMENT PROJECT, COUNTY OF ORANGE,  
CALIFORNIA (ACOE REFERENCE NO. NOT AVAILABLE) (SARWQCB PROJECT  
NO. 302013-21)**

Dear Mr. Cheney:

On October 11, 2013, we received an application for Clean Water Act Section 401 Water Quality Standards Certification ("Certification") from Union Pacific Railroad (UPRR) Company for a project in the city of La Habra, Orange County, to remove and replace existing culverts to better align them with the existing downstream channel. The applicant has also submitted a filing fee of \$1,188.00, which satisfies the fee requirement for consideration of a 401 Certification for the project. This fee amount was determined using the Dredge and Fill Fee Calculator on the State Water Resources Control Board (SWRCB) web site, which is based on the most current iteration of California Code of Regulations, Division 3, Chapter 9, Article 1, section 2200 (a) (3). This letter responds to your request for certification that the proposed project, described in your application and summarized below, will comply with State water quality standards outlined in the Water Quality Control Plan for the Santa Ana River Basin (1995) (Basin Plan) and subsequent Basin Plan amendments:

**Project Description:** The proposed project consists of the following activities as they relate to water quality:

The purpose of the proposed project is to replace worn and decaying three 5-foot-wide by 73-foot-long, north-to-south culverts with new corrugated steel pipe (CSP) culverts that are 92 feet long by 6-feet wide, oriented northwest to southeast. The intent is to better align the culverts with the existing downstream channel. The existing culverts serve a small drainage area that transmits seasonal flows from a water pipeline to an open concrete channel located on either side of the UPRR alignment. The three replacement culverts

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ballast and rail panel. The replacement culverts will be backfilled, and ballasts will be reconstructed of approximately 2,000 cubic feet of excavated fill material. UPRR right-of-way (ROW) measures 60 feet north and south from track centerline at the location of the proposed project. With the exception of approximately 1,000 square feet of temporary work area at the pipeline outfall on the north and 0.75 acres of adjacent construction staging, all work will take place within the UPRR ROW. Easements will be obtained from adjacent landowners for temporary use of this adjacent area during construction.

The work will take place within Section 10 of Township 2 South, Range 10 West, of the U.S. Geological Survey *La Habra* quadrangle map (33° 55' 41.487" N/ -117° 57' 45.643" W).

Receiving water: San Gabriel River, Coyote Creek

Fill area:

Temporary Impact to Streambed Habitat	0.02 acre
Permanent Impact to Streambed Habitat	0.06 acre

Dredge/Fill volume: 2,000 cubic feet

Federal permit: U.S. Army Corps of Engineers Nationwide Permit No. 14

You have proposed to mitigate water quality impacts as described in your Certification application. The proposed mitigation is summarized below:

Onsite Water Quality Standards Mitigation Proposed:

- Standard water quality related best management practices (BMPs) will be employed during construction activities.

Offsite Water Quality Standards Mitigation Proposed:

- None.

Should the proposed project impact state- or federally-listed endangered species or their habitat, implementation of measures identified in consultation with U.S. Fish and Wildlife Service and the California Department of Fish and Wildlife will ensure those impacts are mitigated to an acceptable level. Appropriate BMPs will be implemented to reduce construction-related impacts to Waters of the State according to the requirements of State Water Resources Control Board's General Permit for Storm Water Discharges Associated with Construction Activity.

The applicant reports that the project qualifies for a Public Resources Code Division 13 Section 21080(b)(10) and CEQA Guidelines § 15275 statutory exemption from the provisions of the California Environmental Quality Act (CEQA). The applicant filed a CEQA Notice of Exemption for the project with the Santa Ana Regional Water Quality Control Board, which assumed the responsibility as lead agency for CEQA on October 16, 2013. The project has been deemed statutorily exempt for the reason that the project involves "the institution or increase of passenger or commuter services on rail or highway rights-of-way already in use.

**This 401 Certification is contingent upon the execution of the following conditions:**

- 1) The applicant must comply with the requirements of the applicable Clean Water Act section 404 permit.
- 2) All materials generated from construction activities associated with this project shall be managed appropriately. This shall include identifying all potential pollution sources within the scope of work of this project, and incorporating all necessary pollution prevention BMPs as they relate to each potential pollution source identified.
- 3) The project proponent shall utilize BMPs during project construction to minimize the controllable discharges of sediment and other wastes to drainage systems or other waters of the state and of the United States.
- 4) Substances resulting from project-related activities that could be harmful to aquatic life, including, but not limited to, petroleum lubricants and fuels, cured and uncured cements, epoxies, paints and other protective coating materials, portland cement concrete or asphalt concrete, and washings and cuttings thereof, shall not be discharged to soils or waters of the state. All waste concrete shall be removed.
- 5) Motorized equipment shall not be maintained or parked within or near any stream crossing, channel or lake margin in such a manner that petroleum products or other pollutants from the equipment may enter these areas under any flow conditions. Vehicles shall not be driven or equipment operated in

waters of the state on-site, except as necessary to complete the proposed project. No equipment shall be operated in areas of flowing water.

- 6) This Water Quality Certification is subject to the acquisition of all local, regional, state, and federal permits and approvals as required by law. Failure to meet any conditions contained herein or any the conditions contained in any other permit or approval issued by the State of California or any subdivision thereof may result in the revocation of this Certification and civil or criminal liability.
- 7) Best management practices to stabilize disturbed soils must include the use of native plant species whenever feasible.
- 8) Construction de-watering discharges, including temporary stream diversions necessary for project construction may be regulated under Regional Board Order No. R8-2009-0003, General Waste Discharge Requirements for Discharges to Surface Waters that Pose an Insignificant (De Minimus) Threat to Water Quality. For more information, please review Order No. R8-2009-0003 at [www.waterboards.ca.gov/santaana/](http://www.waterboards.ca.gov/santaana/)
- 9) Applicant shall ensure that all fees associated with this project shall be paid to each respective agency prior to conducting any on-site construction activities.

Under California Water Code, Section 1058, and Pursuant to 23 CCR §3860, the following shall be included as conditions of all water quality certification actions:

- (a) Every certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section §13330 of the Water Code and Article 6 (commencing with Section 3867) of this Chapter.
- (b) Certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a FERC license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to Subsection §3855(b) of this Chapter and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- (c) Certification is conditioned upon total payment of any fee required under this Chapter and owed by the applicant.

If the above stated conditions are changed, any of the criteria or conditions as previously described are not met, or new information becomes available that indicates a water quality problem, the Regional Board may require the applicant to submit a report of waste discharge and obtain Waste Discharge Requirements.

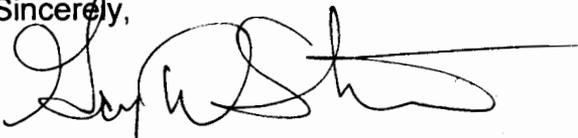
In the event of any violation or threatened violation of the conditions of this certification, the holder of any permit or license subject to this certification shall be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification. Violations of the conditions of this certification may subject the applicant to civil liability pursuant to Water Code section 13350 and/or 13385.

This letter constitutes a Water Quality Standards Certification issued pursuant to Clean Water Act Section 401. I hereby issue an order certifying that any discharge from the referenced project will comply with the applicable provisions of Sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards) of the Clean Water Act, and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003-0017-DWQ (Order No. 2003-0017-DWQ), "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received Water Quality Certification" which requires compliance with all conditions of this Water Quality Standards Certification. Order No. 2003-0017-DWQ is available at:

[www.waterboards.ca.gov/board\\_decisions/adopted\\_orders/water\\_quality/2003/wqo/wqo\\_2003-0017.pdf](http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo_2003-0017.pdf)

Should there be any questions, please contact Marc Brown at (951) 321-4584, or Mark Adelson at (951) 782-3234.

Sincerely,



*Sor* Kurt V. Berchtold  
Executive Officer  
Santa Ana Regional Water Quality Control Board

cc (via electronic mail):

CH2M HILL – Aarty Joshi  
U.S. Army Corps of Engineers, Los Angeles Office - Stephen Estes  
State Water Resources Control Board, OCC - David Rice  
California Department of Fish and Wildlife – Kim Freeburn-Marquez  
SWRCB, DWQ-Water Quality Certification Unit - Bill Orme