

Colorado River Basin Regional Water Quality Control Board

March 24, 2016

Mr. Damian Wallner
Union Pacific Railroad
1400 Douglas Street, Stop 0910
Omaha, NE 68179

RE: ORDER FOR TECHNICALLY-CONDITIONED CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION FOR DISCHARGE OF DREDGED AND/OR FILL MATERIALS

PROJECT: This federal Clean Water Act Section 401 Water Quality Certification (WQC) (33 U.S.C. § 1341) is written for the Union Pacific Railroad - Milepost (MP) 657.99 Culvert Installation Project, WDID No. 7A133145001

APPLICANT: Union Pacific Railroad (UPRR)

- ACTION:**
1. Order for Standard Certification
 2. Order for Technically-Conditioned Certification
 3. Order for Denial of Certification

STANDARD CONDITIONS:

The following standard conditions apply to all certification actions, except as noted above under Action 3 for denials.

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to section 13330 of the California Water Code and section 3867 of Title 23 of the California Code of Regulations (23 CCR).
2. This certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to 23 CCR section 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.

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3. The validity of any non-denial certification action (Actions 1 and 2) shall be conditioned upon total payment of the full fee required under 23 CCR section 3833, unless otherwise stated in writing by the certifying agency.
4. In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation shall be subject to any remedies, penalties, process, or sanctions as provided for under State law. For purposes of Clean Water Act (CWA) section 401(d), 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 Water Quality Certification.
 - a. In response to a suspected violation of any condition of this WQC, the Colorado River Basin Regional Water Quality Control Board (Colorado River Basin Water Board) may require the holder of any permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the Colorado River Basin Water Board deems appropriate, provided that the burden, including cost of the reports, shall be in reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
 - b. In response to any violation of the conditions of this WQC, the Colorado River Basin Water Board may add to or modify the conditions of this certification as appropriate to ensure compliance.

ADDITIONAL CONDITIONS:

The following additional conditions apply to this WQC:

1. This WQC applies towards the proposed project (Project) as described in a 401 application received by the Colorado River Basin Water Board on February 2, 2016. Updated information was received on March 15, 2016.
2. The Applicant shall provide the Colorado River Basin Water Board and other interested agencies with written notification of any significant modifications made to the Project prior to implementation of the modifications.
3. This WQC does not convey any property rights of any sort or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations.

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4. This WQC does not authorize the Applicant or any associated party to trespass on any land or property unless the applicant has obtained written authorization or acquired a special use authorization permit from the land or property owner.
5. A copy of this WQC shall be provided to the appropriate onsite Supervisor for the Project. All personnel performing work on the proposed Project shall be familiar with the content of this WQC. Copies of the WQC shall be readily available at the Project site at all times during periods of active work and shall be presented to regulatory agency representatives upon request.
6. The Applicant shall grant Colorado River Basin Water Board staff, or an authorized representative, upon presentation of credentials and other documents as may be required by law, to enter the Project site at reasonable times, to ensure compliance with the terms and conditions of this WQC and/or to determine the impacts the Project may have on waters of the United States.
7. The proposed Project shall not be enlarged or extend beyond the proposed Project impact area. The Applicant shall delineate the Project boundaries and staging areas with stakes, flags and/or temporary construction fencing.
8. The area of vegetation and soil disturbance shall be restricted to the smallest extent possible.
9. The Project shall not discharge substances in concentrations toxic to human, plant, animal, or aquatic life or that produce detrimental physiological responses.
10. The Project shall not discharge waste classified as "hazardous" as defined in Title 23 California Code of Regulations (CCR) section 2521, California Health and Safety Code section 25140, and Title 22, CCR, section 66260.10 et seq.
11. No oil, petroleum products, or rubbish shall be allowed to enter into or be placed where it may be washed by rainfall or runoff into waters of the United States.
12. No equipment maintenance will be done within or near any stream channel where petroleum products or other pollutants from the equipment may enter waters of the United States.
13. Equipment refueling shall not occur within waters of the United States.
14. Any oil or grease leaks shall be immediately cleaned up.
15. The Applicant shall ensure that all contaminated material and/or contaminated soil removed or excavated from the Project site is properly loaded, transported, and disposed of in accordance with Federal, State, and local regulations.

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16. Staging/storage areas for equipment and materials shall be located outside of waters of the United States.
17. The Applicant shall ensure that all disturbed and filled areas are adequately stabilized and protected from erosion and siltation by implementing appropriate soil stabilization, sedimentation and silt control measures.
18. Any flow diversion used during construction shall be designed in a manner to prevent pollution, minimize siltation, and shall provide flows to downstream reaches. Flows shall be maintained to support existing aquatic life and riparian wetlands and habitat that may be located upstream and downstream from any temporary diversion.
19. The Applicant shall restore drainages, to the greatest extent possible, to the original bank configuration, stream bottom width, and channel gradient.
20. All temporary facilities and impacts shall be removed and restored to the preexisting conditions and contours to the extent practicable.
21. Construction related materials and wastes shall be removed from the Project site upon completion of the Project.
22. The Applicant shall submit Notice to the Colorado River Basin Water Board within 60-days of completion of the Project. The Notice shall include: 1) a detailed summary of the mitigation and restoration activities implemented during the Project and 2) provide photographic documentation that supports the information summarized in the Notice.
23. The Colorado River Basin Water Board reserves the right to suspend, cancel, or modify and reissue this WQC, after providing notice to the Applicant and/or responsible Site-Supervisor, if the Colorado River Basin Water Board determines that the Project fails to comply with any of the terms or conditions of this WQC.
24. The Applicant shall orally notify the Colorado River Basin Water Board of any noncompliance that may impact the beneficial uses of waters of the United States, as soon as notification is possible and notification can be provided without substantially impeding measures necessary to address the noncompliance.

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REGIONAL WATER QUALITY CONTROL BOARD CONTACT PERSON:

If you have any questions, please contact Jay Mirpour, Water Resources Control Engineer, at (760) 776-8981 or jmirpour@waterboards.ca.gov

WATER QUALITY CERTIFICATION:

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.

Except insofar as may be modified by any preceding conditions, all certification actions are contingent on (a) the discharge being limited and all proposed mitigation being completed in strict compliance with the applicants' Project description and the attached Project Information Sheet, and (b) compliance with all applicable requirements of the Colorado River Basin Water Board's Water Quality Control Plan (Basin Plan).



Jose Angel, Interim Executive Officer
Colorado River Basin Regional Water Quality Control Board

JJM/

cc: James E. Mace, USACE Los Angeles, Regulatory Division
Bill Orme, SWRCB, Division of Water Quality, Water Quality Certification Unit
Elizabeth Goldmann, U.S. Environmental Protection Agency, Region 9
Thomas A. Vandenberg, Office of Chief Counsel, SWRCB

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PROJECT INFORMATION

Application Date: This WQC applies towards the proposed Project as described in a 401 application received by the Colorado River Basin Water Board on February 2, 2016. Updated information was received on March 15, 2016.

Applicant: Union Pacific Railroad
Mr. Contact: Damian Wallner
(402) 544-2452

Applicant's Representative:
CH2M HILL
Contact: Mr. Christopher Powers
(425) 233-3427

Project Name: Union Pacific Railroad - MP 657.99 Culvert
Installation Project, WDID No. 7A133145001

Start and Completion: Startup: 05/01/2016, Completion: 10/01/2016

Project Description: In August 2014, flash flooding due to monsoonal rains resulted in a washout of both the railroad and State Route (SR) 111.

UPRR is proposing to install three new 48-inch smooth steel pipe culverts at MP 657.99. The new 48-inch culverts will be installed adjacent to the south of the existing 36-inch culvert using jack and bore methods under the existing track embankment. After removing existing materials, the ground surface beneath the embankment will be excavated to minimum depth to facilitate placement of well-compacted pipe bedding. After the new 48-inch culverts are installed, fill and subballast will be added. Riprap will be placed at the culvert inlets and outlets, forming a riprap slope that will tie-in with the existing slope and headwall for the 36-inch culvert. Flow through the existing 36-inch culvert will be maintained during construction and will remain after the new 48-inch culverts are installed. The replacement culverts have been sized to meet or exceed the current structure's capacity based on a review of the 50-year and 100-year flood events.

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The proposed project was designed to avoid and minimize adverse effects, both permanent and temporary, to Waters of the U.S. to the maximum extent possible. Efforts to avoid and minimize impacts include containing all construction work to the smallest area possible, of which only 0.0011 acre would be permanent impact within the generally unvegetated dry wash below the ordinary high water mark (OHWM).

Project Location:

City or area: Wister, Imperial County, California,
Longitude/ Latitude: 33°20'22.4" North/115°37'19.2" West
Township/Range: 10 South/Range 13 East/Section 4 Base
SB B&M

Receiving Water(s):

East Highline Canal, a tributary to the Salton Sea

Acres and Linear Feet Impacted:

Construction of the proposed project would result in 0.0011 acre (Permanent Streambed unvegetated) and 0.023 acre (Temporary Streambed unvegetated), 80 linear feet (Permanent Streambed unvegetated) impact.

Standard Best Management**Practices (BMPs):**

- No toxic and/or hazardous materials shall be stored near or within wash/drainage areas. To extent possible, these materials will be stored offsite and/or placed in appropriate secondary containment.
- Work and staging areas and temporary access routes will be sized, located and flagged so as to limit potential impacts to natural areas. Previous disturbed areas will be used to the extent feasible.
- No fueling or maintenance of equipment and/or vehicles shall occur adjacent or within the wash/drainage areas.
- Spoil sites shall not be located where spoil could be washed back into the river, or where spoil will cover aquatic or riparian vegetation. Any materials placed in seasonally dry portions of the canal/drainage areas that could be washed downstream or could be harmful to aquatic life shall be removed from the streambed prior to inundation by high flows.

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- After completing the activities, the disturbed area will be restored to pre-existing contours and conditions to the extent feasible.

**Additional Site
Specific BMPs:**

1. Waters of the U.S. will be avoided or impact minimized wherever feasible.

2. A copy of the WQC will be provided to the construction operator. All personnel working at the construction site will be familiar with the content of the WQC. Copies of the WQC will be available at the construction site at all times during periods of active work and will be presented to regulatory agency representatives upon request.

3. UPRR will grant the Colorado River Basin Water Board staff, or an authorized representative, upon presentation of credentials and/or other documents as may be required by law, to enter the construction site at reasonable times, to ensure compliance with the terms and conditions of the WQC and/or determine whether the construction activities may impact waters of the U.S./state.

4. The proposed construction activities will not extend beyond the proposed construction area. UPRR will delineate the construction boundaries and staging areas with stakes, flags, and/or temporary construction fencing.

5. To the maximum extent practicable, existing roads and access ramps will be used to access the construction site.

6. Staging and storage areas for equipment and materials will be located outside of waters of the U.S. and, to the maximum extent practicable, will occur in previously disturbed areas.

7. Following construction, all temporary facilities will be removed and the construction site will be restored to pre-existing conditions and contours where possible.

8. To the extent feasible, excavation and/or grading operations will be conducted during the drier months of the year (generally April through November, excluding summer storms). Work within the unnamed wash will be

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restricted to dry periods and when no rain is predicted. Excavation and grading will not be performed during rain events or prior to predicted rain events unless required by emergency conditions. Construction activities will be scheduled to allow implementation of soil stabilization and sediment controls on all disturbed areas prior to predicted rain events.

9. UPRR will implement appropriate soil stabilization and sediment control measures to reduce the potential transport of soil particles as a result of erosion from the disturbed areas created during construction.

10. In the event the construction area is 1.00 acre or greater, UPRR will comply with the conditions and monitoring and reporting requirements of the General Permit for Stormwater Discharges Associated with Construction Activity. UPRR will develop and implement a Stormwater Pollution Prevention Plan (SWPPP) for the proposed construction, if necessary. If a SWPPP is required, a copy of the SWPPP will be retained on-site during the entire construction period.

Federal Permit(s):

The project was determined to fall under the U.S. Army Corps of Engineers Section 404 Permit, Nationwide Permit (NWP) 14 – Linear Transportation Projects.

Status of CEQA:

The Regional Water Board determined that the proposed project is exempt from CEQA based on the following:

Categorical exemption: CEQA Guidelines § 15301 – the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination.

In accordance with CEQA Guidelines Section 15062, the Regional Water Board shall file a Notice of Exemption with the Office of Planning and Research upon approval of the CWA Section 401 WQC.

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