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SECRETARY FOR  
ENVIRONMENTAL PROTECTION

## Santa Ana Regional Water Quality Control Board

January 14, 2013

Mark McCune  
Union Pacific Railroad Company  
1400 Douglas St. STOP 0910  
Omaha, NE 68179-0910

### **CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS CERTIFICATION FOR THE WEST STATE STREET STORM DRAIN (MP 518.05 & 518.59) PROJECT, COUNTY OF SAN BERNARDINO, CALIFORNIA (ACOE REFERENCE NO. NOT AVAILABLE) (SARWQCB PROJECT NO. 362012-19)**

Dear Mr. McCune:

On August 30, 2012, we received an application for Clean Water Act Section 401 Water Quality Standards Certification ("Certification") from Union Pacific Railroad (UPRR) Company for a project to improve flows to the existing West State Street concrete trapezoidal storm channel in the Montclair/Ontario area of San Bernardino County. The West State Street storm channel parallels the UPRR tracks in this location. 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 subject project will replace the two (2) existing 30" corrugated metal pipes (CMP) with three (3) parallel 36" CMPs at railroad mile post (MP) 518.05 that drain into the West State Street storm drain and add three (3) new 42" smooth steel pipes at MP 518.59 that will drain to the West State Street storm drain. The work will take place in the West State Street storm channel at MP 518.05 and MP 518.59, within Sections 25 and 26, Township 1 South, Range 8 West, of the U.S. Geological Survey *Ontario* quadrangle map (34.060° N/ -117.687° W).

**Receiving water:** San Antonio Creek

**Fill area:** 0.052 acre of temporary impact to streambed habitat (25 linear feet)

CAROLE H. BESWICK, CHAIR | KURT V. BERCHTOLD, EXECUTIVE OFFICER

3737 Main St., Suite 500, Riverside, CA 92501 | [www.waterboards.ca.gov/santaana](http://www.waterboards.ca.gov/santaana)

Dredge/Fill volume: N/A

Federal permit: U.S. Army Corps of Engineers Nationwide Permit No. 7

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 Game 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.

On August 31, 2012, the Santa Ana Regional Water Quality Control Board filed a California Environmental Quality Act Guidelines Section 15302 "Class 2" Categorical Exemption, which declares that the project involves the replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose, but would improve flow and lessen the threat of flooding as the structure replaced. The Regional Board has considered the aforementioned Categorical Exemption in the issuance of this Certification and finds that no changes or alterations to the proposed project are necessary to avoid or mitigate impacts to water quality to a less than significant level.

**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) Proposed mitigation shall be timely implemented. Materials documenting the purchase of necessary mitigation credits shall be provided to this office prior to the discharge of fill to, or the dredging or excavation of material from, waters of the state.
- 3) 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.

- 4) 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.
- 5) 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.
- 6) 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.
- 7) 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.
- 8) Best management practices to stabilize disturbed soils must include the use of native plant species whenever feasible.
- 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)

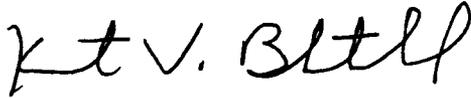
Mark McCune  
Union Pacific Railroad Company

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January 14, 2013

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

Sincerely,



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

cc (via electronic mail):

HDR Engineering – Britton Marchese, [Britton.Marchese@hdrinc.com](mailto:Britton.Marchese@hdrinc.com)  
U. S. Army Corps of Engineers, Los Angeles Office- Mark Durham  
State Water Resources Control Board, OCC- David Rice  
State Water Resources Control Board, DWQ -Water Quality Certification Unit  
California Department of Fish and Wildlife - Joanna Gibson  
U.S. EPA- Supervisor of the Wetlands Regulatory Office WTR- 8

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