

Central Valley Regional Water Quality Control Board

14 March 2025

Jim Brannen
Sr. Manager Environmental Site Remediation
Union Pacific Railroad Company
1400 Douglas Street Stop 1030
Omaha, NE 68179

CERTIFIED MAIL:
7020 3160 0002 1902 4212

OFFER TO PARTICIPATE IN THE EXPEDITED PAYMENT LETTER PROGRAM RELATING TO ADMINISTRATIVE CIVIL LIABILITY R5-2025-0500 FOR ASSESSMENT OF MANDATORY MINIMUM PENALTIES, UNION PACIFIC RAILROAD COMPANY, DUNSMUIR RAILYARD DEWATERING PROJECT, SISKIYOU COUNTY

The Union Pacific Railroad Company (Discharger) discharges treated wastewater from the Dunsmuir Railyard Dewatering Project (Facility) to the Sacramento River, a water of the United States. The discharge to surface water is regulated by Waste Discharge Requirements (WDRs) Order R5-2022-0006-02 (NPDES CAG995002). The Discharger is assigned Limited Threat General Order enrollee number R5-2022-0006-011. As required by section 13385 of the California Water Code, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) must assess mandatory minimum penalties (MMPs) for violations of the effluent limitations contained in the WDRs. This Offer to Participate in the Central Valley Water Board's Expedited Payment Letter (EPL) Program (Conditional Offer) provides the Discharger with an opportunity to resolve mandatory minimum penalties for alleged NPDES permit violations without a formal administrative civil liability complaint. The alleged mandatory minimum penalty, in the amount of **twenty-one thousand dollars (\$21,000)**, represents the sum of accrued mandatory minimum penalties for the effluent limitation violations specifically identified in the Record of Violations (Attachment A), attached hereto and incorporated herein by reference, that occurred between 1 January 2024 through 31 March 2024.

NOTICE OF VIOLATION AND RECORD OF VIOLATIONS

Based on the Discharger's self-monitoring reports, the Central Valley Water Board Prosecution Team sent the Discharger a Notice of Violation (NOV) on 19 December 2024 notifying the Discharger of effluent limit violations and corresponding violations of the California Water Code. The Central Valley Water Board Prosecution Team provided the Discharger with an opportunity to review and contest the violations listed in the attached ROV. Following the Discharger's review of the NOV,

NICHOLAS AVDIS, CHAIR | PATRICK PULUPA, EXECUTIVE OFFICER

the Central Valley Water Board Prosecution Team confirmed that the violations listed in the NOV are subject to mandatory minimum penalties.

STATUTORY LIABILITY

Water Code section 13385(h) and (i) require the assessment of a mandatory minimum penalty of \$3,000 for each specified serious and chronic effluent limit violation. The Discharger may also be subject to discretionary administrative civil liabilities pursuant to Water Code section 13385(c) of up to \$10,000 for each day in which the violation occurs, and \$10 for each gallon discharged but not cleaned up in excess of 1,000 gallons. These mandatory minimum penalties and discretionary administrative civil liabilities may be assessed by the Central Valley Water Board beginning with the date that the violations first occurred. The formal enforcement action that the Central Valley Water Board uses to assess such liability is an administrative civil liability complaint, although the Central Valley Water Board may instead refer such matters to the Attorney General's Office for prosecution. If referred to the Attorney General for prosecution, the Superior Court may assess up to \$25,000 for each day in which the violation occurs, and \$25 for each gallon discharged but not cleaned up in excess of 1,000 gallons.

SETTLEMENT OFFER

The Discharger can avoid the issuance of an administrative civil liability complaint and settle the alleged violations identified in Attachment A by participating in the EPL Program.

To promote resolution of these violations, the Central Valley Water Board Prosecution Team makes this Conditional Offer. The Central Valley Water Board's Prosecution Team proposes to resolve the violation without the issuance of an administrative civil liability complaint through this Conditional Offer assessing **twenty-one thousand dollars (\$21,000)** in mandatory minimum penalties. If the Discharger accepts this proposal, subject to the conditions below, the Central Valley Water Board Prosecution Team will forego issuance of an administrative civil liability complaint, will not refer the violations to the Attorney General, and will waive its right to seek additional discretionary civil liabilities for the violations identified in Attachment A. This Conditional Offer does not address or resolve liability for any violation that is not specifically identified in Attachment A, regardless of the date that the violation occurred.

If the Discharger accepts this Conditional Offer, please complete and return the enclosed "Acceptance of Conditional Resolution and Waiver of Right to Hearing; (proposed) Order" (Acceptance and Waiver) on or before **13 April 2025**.

CONDITIONS FOR CENTRAL VALLEY WATER BOARD ACCEPTANCE OF RESOLUTION

Federal regulations require the Central Valley Water Board to publish and allow the public thirty (30) days to comment on any settlement of an enforcement action addressing NPDES permit violations (40 C.F.R. section 123.27(d)(2)(iii)).

[Notice of this settlement](https://www.waterboards.ca.gov/centralvalley/board_decisions/tentative_orders/) will be published on the Central Valley Water Board's website at: (https://www.waterboards.ca.gov/centralvalley/board_decisions/tentative_orders/).

If no comments are received within the 30-day comment period, and unless there are new material facts that become available to the Central Valley Water Board, the Acceptance and Waiver will be presented to the Executive Officer for consideration of adoption as a stipulated order assessing the uncontested mandatory minimum penalty amount pursuant to Water Code sections 13385.

However, if significant comments are received in opposition to the settlement, this Conditional Offer may be withdrawn. In that case, the Discharger's waiver pursuant to the Acceptance and Waiver will be void and the violation(s) will be addressed in an administrative civil liability hearing. At the hearing, the Discharger will be free to make arguments to any of the alleged violations, and the Discharger's prior agreement to accept this Conditional Offer will not in any way be binding or used as evidence against the Discharger. The Discharger will be provided with further information on the administrative civil liability hearing process.

If the Discharger chooses to sign the Acceptance and Waiver, full payment of the assessed amount may be submitted with the waiver. However, full payment of the assessed amount shall be due no later than thirty (30) calendar days after the date the Acceptance and Waiver is executed by the Executive Officer. In accordance with California Water Code section 13385(n)(1), funds collected for violations of effluent limitations pursuant to section 13385 shall be deposited in the State Water Pollution Cleanup and Abatement Account. Accordingly, the **\$21,000** liability shall be paid by cashiers or certified check made out to the "State Water Pollution Cleanup and Abatement Account". Failure to pay the full penalty within the required time period may subject the Discharger to further liability.

The Discharger shall indicate on the check the number of this EPL and send it to the Central Valley Water Board (Stacy.Gotham@waterboards.ca.gov).

If you have any questions or comments regarding this Conditional Offer, please contact Stacy Gotham at (530) 224-4993 or Stacy.Gotham@waterboards.ca.gov.

Original signed by Clint E. Snyder

Clint E. Snyder, P.G.
Assistant Executive Officer

MC: cc

Enclosures (2): Attachment A Record of Violations
Acceptance of Conditional Resolution and Waiver of Right to Hearing

cc electronically: Eric Magnan, USEPA, Region 9, San Francisco
Kari Holmes, Central Valley Water Board, Rancho Cordova
Tom Lae, Jacobs, Redding

ATTACHMENT A TO SETTLEMENT OFFER NO. R5-2025-0500
Record of Violations Subject to Mandatory Minimum Penalties

Union Pacific Railroad Company
Dunsmuir Railyard Dewatering Project

RECORD OF VIOLATIONS (1 January 2024 through 31 March 2024) MANDATORY PENALTIES
(Data reported under Monitoring and Reporting Programs R5-2022-0006-011)

The following table lists the alleged violations subject to mandatory minimum penalties (MMPs), pursuant to Water Code section 13385(h) and (i).

Table A. Violations subject to Mandatory Penalties

#	Violation Date	Parameter	Units	Condition	Limit	Measured	Violation Type	MMP Type	CIWQS ID	MMP Amount
1	3-Jan-24	Dibenzo (a,h) anthracene	µg/L	Maximum Daily	0.0088	0.011	CAT 2	SIG	1127071	\$3,000
2	3-Jan-24	Indeo (1,2,3-cd) Pyrene	µg/L	Maximum Daily	0.0088	0.011	CAT 2	SIG	1127075	\$3,000
3	31-Jan-24	Dibenzo (a,h) anthracene	µg/L	Average Monthly	0.0044	0.011	CAT 2	SIG	1127074	\$3,000
4	31-Jan-24	Indeo (1,2,3-cd) Pyrene	µg/L	Average Monthly	0.0044	0.011	CAT 2	SIG	1127076	\$3,000
5	31-Jan-24	Benxp(a)Pyrene	µg/L	Average Monthly	0.0044	0.0083	CAT 2	SIG	1127069	\$3,000
6	31-Jan-24	Chrysene	µg/L	Average Monthly	0.0044	0.0058	CAT 2	SIG	1127070	\$3,000
7	7-Mar-24	Chrysene	µg/L	Average Monthly	0.0044	0.0052	CAT 2	CHRON	1135017	\$3,000

Total Mandatory Minimum Penalty = \$21,000

Attachment A to Settlement Offer No. R5-2025-0500
Record of Violations Subject to Mandatory Minimum Penalties

Table B. Definition

Abbreviation	Description
CAT 1	Violation of effluent limitation for Group I pollutant.
CAT 2	Violation of effluent limitation for Group II pollutant
CHRON	Chronic violation as defined by Water Code section 13385 (i). Any non-serious violation that falls within a 180-day period with three preceding violations. Thus, the fourth non-serious violation that occurs within a 180-day period is subject to MMPs.
CIWQS	California Integrated Water Quality System database. https://www.waterboards.ca.gov/water_issues/programs/ciwqs/
CTOX	Violation of chronic toxicity effluent limitation.
DREP	Deficient reporting violation. This will only result in MMPs if the report is so deficient as to make determination of compliance impossible for the reporting period.
LREP	Late Reporting violation. Every 30-Days a report is late counts as one serious late reporting violation subject to MMPs.
Measured	Reported value for the monitoring period by the Dischargers.
MMP Type	Classification of the type of MMP violation.
Occurrence Date	Date that a violation occurred. For averaging period limitation violations, such as weekly and monthly averages, the last day of the reporting period is used such as last day of the week (Saturday) and last day of the month, respectively.
OEVI	Violation of any constituent-specific effluent limitation not included in Group I or Group II.
NCHRON	Non-serious violation falls within the first three violations in a 180-day period, thus, not subject to MMP.
SIG	Serious Violation: <ul style="list-style-type: none"> ▪ For Group I pollutants that exceed the effluent limitation by 40 percent or more. ▪ For Group II pollutants that exceed the effluent limitation by 20 percent or more.

**Offer to Participate in Expedited Payment Letter Program
Union Pacific Railroad Company
EPL R5-2025-0500**

**ACCEPTANCE OF CONDITIONAL RESOLUTION
AND WAIVER OF RIGHT TO HEARING**

Union Pacific Railroad Company
EPL No. R5-2025-0500

By signing below and returning this Acceptance of Conditional Resolution and Waiver of Right to Hearing (Acceptance and Waiver) to the Central Valley Regional Water Quality Control Board (Central Valley Water Board), the Union Pacific Railroad Company (Discharger) hereby accepts the "Offer to Participate in Expedited Payment Letter Program" (Conditional Offer), incorporated herein by reference, and waives the right to a hearing before the Central Valley Water Board to dispute the allegations of violations described in the Record of Violations (ROV), which is included as Attachment A to the Conditional Offer.

The Discharger agrees that the Conditional Offer shall serve as a complaint pursuant to Article 2.5 of the California Water Code and that no separate complaint is required for the Central Valley Water Board to assert jurisdiction over the alleged violations through its Chief Prosecutor. The Discharger agrees to pay the penalties required by California Water Code section 13385(h) and/or (i), in the sum of **\$21,000** (Expedited Payment Amount), which shall be deemed payment in full of any civil liability pursuant to Water Code section 13385 that otherwise might be assessed for the violations described in the ROV. The Discharger understands that this Acceptance and Waiver waives its right to contest the allegations in the ROV and the amount of civil liability assessed for the violations.

The Discharger understands that this Acceptance and Waiver does not address or resolve liability for any violation that is not specifically identified in the ROV.

Upon execution by the Discharger, the completed Acceptance and Waiver shall be returned via email or U.S. mail to:

Stacy Gotham, Senior Water Resources Control Engineer
NPDES Permitting and Enforcement Unit
364 Knollcrest Drive, Suite 205
Redding, CA 96002
Phone: (530) 244-4993
Stacy.Gotham@waterboards.ca.gov

The Discharger understands that federal regulations set forth at title 40, Code of Federal Regulations, section 123.27(d)(2)(iii) require the Central Valley Water Board to publish notice of and provide at least thirty (30) days for public comment on any proposed resolution of an enforcement action addressing NPDES permit violations. Accordingly, this Acceptance and Waiver, prior to consideration of adoption by the Central Valley Water Board Executive Officer, will be published as required by law for public comment.

Offer to Participate in Expedited Payment Letter Program
EPL R5-2025-0500

If no comments are received within the notice period that causes the Central Valley Water Board Assistant Executive Officer to question the Expedited Payment Amount, the Acceptance and Waiver will be presented to the Central Valley Water Board Executive Officer for consideration of adoption as a stipulated order.

The Discharger understands that if significant comments are received in opposition to the Expedited Payment Amount, the offer on behalf of the Central Valley Water Board to resolve the violations set forth in the ROV may be withdrawn. In that circumstance, the Discharger will be advised of the withdrawal and an administrative civil liability complaint may be issued and the matter may be set for a hearing before the Central Valley Water Board. For such a liability hearing, the Discharger understands that this Acceptance and Waiver executed by the Discharger will not be used as evidence in that hearing.

The Discharger further understands that once the Acceptance and Waiver is executed by the Central Valley Water Board Executive Officer, the full payment required by the deadline set forth below is a condition of this Acceptance and Waiver. In accordance with California Water Code section 13385(n)(1), funds collected for violations of effluent limitations pursuant to section 13385 shall be deposited in the State Water Pollution Cleanup and Abatement Account. Accordingly, the **\$21,000** liability shall be paid by a cashiers or certified check made out to the "State Water Pollution Cleanup and Abatement Account". The Discharger may choose to submit the full payment with the Waiver. However, the payment must be submitted to the State Water Resources Control Board no later than thirty (30) calendar days after the date the Acceptance and Waiver is executed by the Central Valley Water Board Executive Officer.

Please mail the check to:

State Water Resources Control Board, Accounting Office
Attn: EPL R5-2025-0500 Payment
P.O. Box 1888
Sacramento, California, 95812-1888

The Discharger shall also provide a copy of the wavier form and check via email to the Central Valley Water Board (Stacy.Gotham@waterboards.ca.gov).

Offer to Participate in Expedited Payment Letter Program
EPL R5-2025-0500

I hereby affirm that I am duly authorized to act on behalf of and to bind the Discharger in the making and giving of this Acceptance and Waiver.

United Pacific Railroad Company

By: Original signed by Mike W. Makerov
Signed Name

24 March 2025
Date

Mike W. Makerov
Printed or Typed Name

24 March 2025
Date

IT IS SO ORDERED PURSUANT TO CALIFORNIA WATER CODE SECTION 13323
AND GOVERNMENT CODE SECTION 11415.60

By: Original signed by Patrick Pulupa
Patrick Pulupa
Executive Officer