

UNION PACIFIC RAILROAD
1400 Douglas Street, STOP 0910
Omaha, Nebraska 68179-0910

Structures Design Group

P 402 544 5194
F 402 501 0478
mlmccune@up.com

October 21, 2013

File: Bridge 739.79 Lakeside Sub
Culvert 750.53 Lakeside Sub

Via Electronic Mail and First Class Mail

Mr. Jason Gipson
Branch Chief, Regulatory Division
U.S. Army Corps of Engineers, Sacramento District
Nevada-Utah Regulatory Branch
533 West 2600 South, Suite 150
Bountiful, Utah 84010

Re: Union Pacific Railroad (UPRR) - Great Salt Lake Causeway - Notification of Imminent Failure of East Culvert and Declaration of Emergency Conditions - Request to Reactivate UPRR Preconstruction Notification

Dear Jason:

I am writing to follow up on the telephone report our outside counsel, Wayne Whitlock, made to you on October 14, 2013 regarding the results of our recent inspection of the East culvert in the Great Salt Lake Causeway. Unfortunately, that inspection revealed that the East culvert has now deteriorated to the point that it is beyond repair. We believe collapse of the culvert is imminent. Therefore, we are notifying the Army Corps of Engineers (Corps) that UPRR must move forward with closure of the East culvert as soon as possible to avoid a potential derailment due to culvert failure under train traffic. We request Corps authorization of this emergency closure.

Background. On August 29, 2012, the Corps authorized emergency closure of the West culvert pursuant to Nationwide Permit 14 (August 2012 NWP); the Corps also authorized construction of the proposed bridge to compensate for the loss of aquatic functions resulting from culvert closure. The August 2012 NWP authorization included a number of Special Conditions, including a requirement to develop of a compensatory mitigation and monitoring plan for Corps approval before bridge construction could proceed.

UPRR had sought authority to close both East and West culverts in the original March 2011 Preconstruction Notification (PCN). UPRR renewed its request for that authorization on August 16, 2012 when an inspection of the two culverts revealed that the West culvert had cracked and broken. It posed an imminent risk of collapse. Therefore, UPRR declared an emergency condition and requested Corps authorization to close the West culvert immediately.



At that time, the East culvert was deteriorating but its condition was not as critical as the West culvert. Therefore, although UPRR sought coverage for eventual closure of the East culvert, UPRR explained in its August 16 notification that it planned to leave that culvert in place for now in order to allow bi-directional flows through that culvert as long as safety conditions permitted. Specifically, UPRR proposed closure of the East culvert at the time the bridge would be constructed—unless culvert conditions worsened to the point that immediate closure would be required for safety reasons. UPRR's rationale for including the East culvert under the same authorization was that closure of the East culvert was inevitable because it was in the process of failing, and the bridge was proposed to compensate for the impacts of closing both East and West culverts.

In response, the Corps determined not to provide the requested coverage for eventual East culvert closure. The Corps acknowledged that the compensatory mitigation bridge (and the mitigation and monitoring plan called for in the August 2012 NWP Special Conditions) addressed the impacts of closing both culverts. However, the Corps stated its preference to avoid confusion of emergency and non-emergency closure work in the August 2012 NWP authorization and its hope that closure of the East culvert would not become necessary until the new bridge could be constructed. Rather than requiring a new permit application if emergency closure became necessary, the Corps clarified that it would provide such authorization by reactivating UPRR's existing PCN application:

[W]e are cognizant of the fact that you were not withdrawing your request to close the East Culvert and appreciate your good faith efforts to leave the East Culvert in place as long as it is possible to safely do so. We feel it appropriate to authorize closure of the East Culvert separately when it is evident that it necessary to do so. As soon as we receive your notification of the imminent failure of the East Culvert, we would reactivate your PCN application and verify a NWP 14 for closure of the East Culvert. ACOE to UPRR (October 3, 2012).

UPRR has prepared this notification consistent with the Corps' October 3 direction.

Request to Reactivate Preconstruction Notification. As reflected in our August 16 letter, we shared the Corps' hope that it would not be necessary to close the East culvert before the compensatory mitigation bridge could be constructed. Unfortunately, as reflected in the enclosed inspection report prepared by Jacobs Associates, the East culvert has deteriorated to conditions similar to those of the West culvert at the time it became necessary to close it. Further, we have determined that the culvert is beyond repair. Jacobs Associates' report reflects that culvert failure is imminent, posing the risk that the culvert could collapse and cause a train derailment. Therefore, UPRR is declaring an emergency condition that necessitates East culvert closure as soon as possible.

Pursuant to the Corps' October 3, 2012 direction, we request that the Corps reactivate the outstanding portion of UPRR's March 2011 Preconstruction Notification that covered closure of the East culvert and authorize emergency closure of the culvert under Nationwide Permit 14.

It will take a few days to mobilize the necessary equipment and materials. Currently, we expect to perform the emergency closure work on November 4. We will keep you informed as our plans develop.

Consultation Process on Existing Corps Permit. As we address the issues associated with emergency closure of the East culvert, UPRR again acknowledges the separate rights and obligations established under the August 2012 NWP authorization—specifically, the need to complete our reevaluation of potential

impacts of replacing the two causeway culverts with a new bridge and develop a revised mitigation and monitoring plan based on the results. UPRR remains fully committed to the consultation and agency coordination process established by the Corps and UPRR to resolve those issues.

We appreciated the opportunity to meet with the Corps and the coordinating agencies on October 2 to discuss UPRR's proposed impacts reevaluation and agency coordination plan described in our September 25 letter to the Corps and for the positive feedback UPRR has received. We look forward to working with you to complete the reevaluation plan and then make any appropriate adjustments to the bridge design and the mitigation monitoring plan that result from this reevaluation. We believe that the Corps' consultation process and our joint efforts present the best opportunity to achieve our common objectives of getting the mitigation in place as soon as possible in order to minimize the effects of culvert closure.

In that regard, we propose to schedule the next informal consultation meeting outlined in our September 25 letter as soon as possible in November to discuss the results of the first phase of the evaluation and the next steps, including a schedule for completing the impacts evaluation and the consultation process. In that meeting, we also propose to brief the Corps and the coordinating agencies on the East culvert closure and answer any questions of the coordinating agencies.

Please feel free to call me with any questions about our request for emergency authorization. We will contact you to make arrangements for the briefing meeting proposed above. Thank you in advance for your continued cooperation in our efforts to address these important safety and environmental concerns.

Sincerely,



Mark L. McCune, PE
Director Structures Design

Enclosure

cc: Ms. Kathleen Anderson
Ms. Debra L. Schafer
Mr. Stephen L. Cheney
Robert C. Bylsma, Esq.
Mr. Daniel T. Harbeke
Wayne M. Whitlock, Esq.