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**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Application of Union Pacific Railroad
Company, d/b/a Keene Water System
(U 0434 W) for Adjustments to Revenue
Requirement, Rate Design, and Rates

A.25-03-016

In the Matter of Application of Union Pacific
Railroad Company d/b/a Keene Water System
(0434W) for Authorization to be Relieved of
its Public Utility Status and Water Service
Obligations

A.25-03-017

MOTION OF

UNION PACIFIC RAILROAD COMPANY (KEENE WATER SYSTEM) (U 434 W)

FOR OFFICIAL NOTICE OF

**STATE WATER RESOURCE CONTROL BOARD UPDATE ON TECHNICAL
ASSISTANCE WORK PLAN**

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October 13, 2026

Pursuant to Rules 11.1 and 13.10 of the California Public Utilities Commission’s (“Commission”) Rules of Practice and Procedure, Keene Water System (“KWS”), the water utility division of Union Pacific Railroad Company (“UPRR”), hereby requests that the Commission take official notice of a recent update issued by the State Water Resources Control Board (“SWRCB” or “Water Board”) regarding the Water Board’s Technical Assistance Work Plan (“Work Plan”). The update is embodied in a letter from Kristyn Abhold, Assistant Deputy Director of the State Water Board, Division of Financial Assistance, to the Commission and KWS, dated September 2, 2026 (the “Update”). The Update bears directly on the procedural posture and schedule for this proceeding, as it confirms that the Water Board will no longer pursue “test-well drilling” as part of the Work Plan, nor will a “Final Engineering Report” be issued pursuant to the Work Plan.

This announcement reflects a material modification to the Work Plan that undercuts the basis for holding this matter in abeyance.¹ In addition, the Update contains information regarding the Water Board’s analysis of potential long-term solutions for the Keene community, including consolidation, water rights, formation of a new water system, and a new source of water. The Update should be officially noticed on the record of this proceeding. A true and correct copy of the Update is provided herewith as **Attachment A**.

The Water Board Update states that “circumstances have materially changed” since the creation of the initial Work Plan.² According to its terms, the Work Plan was designed to “identify a long-term solution to identify a technically feasible water source to provide a reliable and adequate supply of water for KWS.”³ The Work Plan contemplated drilling test wells and ultimately producing an Engineering Report evaluating project alternatives, including consolidation.⁴ As originally envisioned, the Work Plan stated that “[g]iven the distance to potential consolidation partners . . . a test well protocol (whereby multiple locations will be tested for viability to develop one or more new groundwater sources) is proposed to confirm production capacity and water quality.”⁵

¹ See *ALJ Ruling Holding Proceeding Schedule in Abeyance* (August 31, 2026) at 1.

² See Attachment A at 1.

³ *Technical Assistance Work Plan* (October 27, 2025) at 3.

⁴ *Ibid.*

⁵ *Ibid.*

However, in the Update, the Water Board determined that: (1) “potential consolidation partners have declined or expressed significant concerns;” (2) due to cost concerns, the Work Plan has been modified such that test wells will no longer be part of Water Board’s analysis; and (3) funds will be redirected toward “feasibility studies, preliminary planning, and other early-stage assistance.”⁶ The Update concludes:

Uncertainty around the ownership and management of the system leaves DFA unable to determine whether reimbursement of test-well drilling supports a long-term solution. If CPUC relieves Union Pacific Railroad of their obligation to provide water service, the test wells cannot move forward as originally contemplated. *Continued TA funding support for test-well drilling is not justified without reasonable assurance that the resulting infrastructure will be maintained and supported in the long-run.*

. . .

Any future assistance request for State Water Board funding would require a confirmed governing entity and would be evaluated under the applicable funding requirements and priorities.⁷

Rule 13.10 of the Commission’s Rules of Practice and Procedure specifies that “[o]fficial notice may be taken of such matters as may be judicially noticed by the courts of the State of California pursuant to Evidence Code section 450 *et seq.*”⁸ California Evidence Code Section 452(c) permits judicial notice of “[o]fficial acts of the legislative, executive, and judicial departments . . . of any state of the United States.”⁹ The Water Board is part of the executive branch of the State of California, and the Update is by an Assistant Deputy Director of the Water Board on behalf of the agency. California Evidence Code Section 452(h) also permits judicial notice of “[f]acts and propositions that are not reasonably subject to dispute.”¹⁰ Courts have held that Evidence Code Sections 452(c) and (h), together, allow judicial notice of documents “reflecting the official acts of local and state agencies, including resolutions, minutes, and agendas.”¹¹ Thus, based on California Evidence Code Section 452(c) and (h), coupled with Rule 13.10, the Commission has the authority to take official notice of the Water Board Update.

⁶ Attachment A at 1.

⁷ Attachment A at 4 (emphasis added).

⁸ Rule 13.10

⁹ Cal. Evid. Code § 452(c).

¹⁰ Cal. Evid. Code § 452(h).

¹¹ *Julian Volunteer Fire Co. Ass’n. v. Julian-Cuyamaca Fire Prot. Dist.*, 62 Cal.App.5th 583, 599 (2021).

While the decision to take official notice is discretionary, good cause exists for the Commission to take official notice of the Update because the Water Board's changes to the Work Plan scope—removing the drilling of test wells and a Final Engineering Report—eliminates the very foundation upon which the Commission relied in ordering that these proceedings be held in abeyance. As there will no longer be test wells or a Final Engineering Report, there is no longer a basis for holding these proceedings in abeyance.¹²

Based on the foregoing, KWS requests that the Commission take official notice of the Water Board Update.

Executed on this 13th day of October 2026.

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¹² *ALJ Ruling Holding Proceeding Schedule in Abeyance* (August 31, 2026) at 1 (“The Commission will hold the proceeding schedule in abeyance until the State Water Resources Control Board files its Final Engineering Report, given the report’s significance to this proceeding.”).

Attachment A

State Water Resources Control Board

TO: California Public Utilities Commission (CPUC) and Union Pacific Railroad Company - Keene Water System (UPRK)

FROM: Kristyn Abhold
Assistant Deputy Director
State Water Board, Division of Financial Assistance (DFA)

DATE: September 2, 2026

SUBJECT: Union Pacific Railroad Company - Keene Water System Project

The purpose of this letter is to provide the California Public Utilities Commission (CPUC) with an update on the State Water Resources Control Board's (State Water Board) Technical Assistance (TA) for the Keene Water System (KWS), including the findings to date and planned next steps. The State Water Board recognizes the community's continuing need for a reliable and sustainable drinking water supply. However, the work completed since the TA Work Plan was approved has identified significant managerial and financial barriers that affect continued TA.

When the State Water Board approved the current TA Work Plan, it was to explore whether physical consolidation or another long-term governing entity for the KWS was viable and it also included scope for test-well development (\$834,869). Since that time, circumstances have materially changed. Potential consolidation partners have declined or expressed significant concerns, the community remains uncertain about forming its own governing entity, and Union Pacific Railroad continues to seek authorization to withdraw from providing water service.

These concerns are heightened by the projected substantial decline in available drinking water funding over the next several fiscal years and the high cost of the drilling task relative to other TA projects. This anticipated decline has required the State Water Board to reevaluate high-cost activities funded through the TA Program. Where appropriate, DFA has shifted high-cost activities, like test wells, from TA work plans to construction agreements that have more funding capacity. This approach preserves TA funding for feasibility studies, preliminary planning, and other early-stage assistance, allowing the State Water Board to assist as many California communities as possible through the TA program.

E. JOAQUIN ESQUIVEL, CHAIR | ERIC OPPENHEIMER, EXECUTIVE DIRECTOR

The State Water Board intends to fund completion of the test-well siting analysis and engineering designs. Once that work is complete, pending an amendment to the TA Work Plan, the TA Work Plan will be closed out consistent with DFA's standard procedures.

Background:

Keene Water System (KWS) is located in Kern County, California, approximately 7 miles northwest of Tehachapi City. The system serves 26 service connections, has a population of 208, and has a median household income (MHI) of \$52,159, qualifying it as a disadvantaged community (DAC). The system is run and operated by Union Pacific Railroad and is a CPUC regulated system. In 2009, the system destroyed all groundwater wells for lack of production and switched to 100% hauled water. Union Pacific Railroad is spending approximately \$292,313 (\$11,242 per household; approximately 22% of community MHI) per year to haul water to the community.

On August 1, 2023 DDW issued a compliance order, adding the system to the State Water Board's Failing list on May 1, 2024. The compliance order requires the system to provide a reliable and adequate supply of potable water that meets or exceeds the system's Maximum Day Demand (MDD) without relying on hauled water by December 31, 2026.

On March 28, 2025, Union Pacific Railroad filed an application with CPUC to adjust the rates or relinquish its public utility status as a water utility and withdraw from the provision of water service in California.

On May 6, 2025, Union Pacific Railroad submitted a TA request for assistance with a Feasibility Study and test wells to explore a viable source of water and potential consolidating partner. The purpose of a Feasibility Study is to identify potential long-term alternatives for a community. It does not include full planning and does not constitute a commitment to additional funding support.

On August 11, 2025, the State Water Board executed Work Plan 7309-A with Provost & Pritchard Consulting Group (P&P) as a TA Provider. The approved scope of work included preparation of a Feasibility Study and development of test wells for a total budget of \$1,004,966. The budget approved for tasks related to the test wells was \$834,869 (83% of the work plan budget).

Feasibility Study:

State Water Board staff and P&P's Feasibility Study have analyzed the following potential long-term solutions for the community:

Physical Consolidation: Physical consolidation was deemed infeasible due to long distance and remote locations of specific service connections, a physical interconnection between KWS and another water system would be expensive to design, build, and maintain. Furthermore, nearby systems have expressed their unwillingness to consolidate KWS and indicate lack of source capacity to accommodate additional connections.

Managerial Consolidation: Five nearby systems were contacted: City of Tehachapi, Hart Flat Bear Mutual Water Company (MWC), Valley View Estates, Hart Creek Estates MWC, and Golden Hills Community Services District (CSD). Of these, only Golden Hills CSD expressed willingness to keep the discussions open pending the outcome of the test wells. However, they expressed concerns about the disproportionate financial burden associated with both annual operation and maintenance (O&M) costs and the long-term accumulation of capital reserves required for future infrastructure repair and replacement.

Water Rights: The value of KWS' surplus water rights is not considered sufficient to attract a new owner or operator. Although the system has an estimated surplus allocation of approximately 35 acre-feet per year, the relatively small volume is not viewed as economically attractive in the local water market, where transactions typically occur in much larger quantities. The limited value of the surplus water rights would likely not offset the costs and liabilities associated with acquiring and operating the system.

Forming a New Water System: The community remains uncertain about forming a new governing entity. Both the community and the State Water Board have concerns that it would likely struggle with achieving the technical, managerial, and financial capacity to effectively operate and maintain groundwater wells, treatment, and a distribution system.

New Source of Water: The work plan included a scope to explore the development of test wells for the community that may be turned into production wells if viable and with County approval. The system is located in a hard-rock aquifer, where groundwater yields can be variable, potentially necessitating the development of two wells to provide a reliable water supply. This approach would increase long-term operation and maintenance (O&M) costs associated with operating and maintaining two groundwater sources. P&P is currently identifying potential locations for two test wells and will explore different design options. This effort also includes helping negotiate a land-lease agreement between the identified test well location landowners and Union Pacific.

There is a risk that the test wells will find contaminated ground water. Eight prior wells serving KWS have gone dry or had contamination issues like iron, manganese, fluoride,

and arsenic, making the likelihood of this occurring again high. If contamination is found and treatment is deemed necessary, it will further increase the O&M costs associated with operating two wells, likely making the system unaffordable for the community.

Governance and Funding Concerns:

State Water Board outreach and P&P's feasibility analysis have not identified a viable alternative governing entity for KWS. Uncertainty around the ownership and management of the system leaves DFA unable to determine whether reimbursement of test-well drilling supports a long-term solution. If CPUC relieves Union Pacific Railroad of their obligation to provide water service, the test wells cannot move forward as originally contemplated. Continued TA funding support for test-well drilling is not justified without reasonable assurance that the resulting infrastructure will be maintained and supported in the long-run.

Next Steps:

The State Water Board intends to fund P&P's completion of the test-well siting analysis and engineering designs. Once that work is complete, pending an amendment to the TA Work Plan, the TA Work Plan will be closed out consistent with DFA's standard procedures. Any future assistance request for State Water Board funding would require a confirmed governing entity and would be evaluated under the applicable funding requirements and priorities.

 Kristyn Abhold
Digitally signed by Kristyn Abhold
Date: 2026.09.28 07:32:09 -07'00'
Water Boards

Kristyn Abhold, Assistant Deputy Director
Division of Financial Assistance

cc: See next page

cc: James Garrett, DFA

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